HOUSE OF LORDS

Select Committee on the European Union

Sub-Committee on EU Services

Corrected oral evidence: Inquiry on the future UK-EU relations: trade in services

Thursday 14 January 2021

10 am

Watch the meeting

Members present: Baroness Donaghy (The Chair); Lord Bruce of Bennachie; Baroness Couttie; Lord McNally; Baroness Neville-Rolfe; Baroness Prashar; Lord Sharkey; Lord Thomas of Cwmgiedd; Viscount Trenchard; Lord Vaux of Harrowden.

Evidence Session No. 1 Virtual Proceeding Questions 1 – 12

Witnesses

I: Miles Celic, Chief Executive Officer, TheCityUK; Nick Collier, Managing Director (Brussels), City of London Corporation.

Examination of witnesses

Miles Celic and Nick Collier.

Q1 **The Chair:** Welcome to the EU Sub-Committee's public evidence session as part of our inquiry into financial services after Brexit. The session is being broadcast on parliamentlive.tv. A full transcript is being taken and will be made available to you, shortly after the session, to make any corrections.

I am delighted to welcome to this public session Nick Collier, who is the managing director (Brussels), City of London Corporation, and Miles Celic, who is the chief executive officer of TheCityUK. You are very welcome, and thank you for coming along.

We had your written evidence before Christmas, before we knew about the deal. It was very full evidence, for which we thank you. If you want to make a general statement, that is fine. We heard last year that the financial services sector was well prepared for the end of the transition period. How has the sector fared since 1 January in general, and has the end of the transition period brought any unexpected developments?

Miles Celic: Thank you, Chair, and your colleagues for this opportunity to go through the impact of Brexit on financial and, indeed, broader related professional services. Since we came to the end of the transition period, so far there have been no unexpected developments. The industry, by dint of being very highly regulated, and by dint of the fact that it has a broader impact and a service that it provides to the rest of the economy, reflects the inherent risks of things going wrong and the knock-on effect that has across the wider economy.

That meant that, pretty much from the day of the referendum result becoming clear on 24 June, the industry has been working closely with regulators and with government, in the UK and across the EU, to make sure that all the preparations that could be made were made in order to minimise the risks of disruption and dislocation. Huge amounts of time, resource and effort have been expended on that. In sheer practicalities, a huge effort has been made. I take this opportunity to congratulate all those involved in industry, government and the regulators across the UK and the EU for the herculean effort that went in.

The politics were clearly in the driving seat very early in the process. As we said in our submission to the committee in November, the industry has been very clear-eyed about what coverage of financial services was possible, and likely. We knew that from a financial services perspective it was likely to be pretty thin. The political declaration two years ago was quite clear that the regulatory autonomy of both sides would be a clear priority. If I had to summarise it, I would say that the industry, for some time, has hoped for the best but prepared for the worst, and, as such, what we have seen since the end of the transition period has not been unexpected. There will be a period and a process of ongoing adaptation, but, so far, we are in good shape.

The Chair: Thank you very much.

Nick Collier: I totally agree with what Miles said. The industry has done a good job. I quite liked the cheeky phrase in the EU summary of the document that says that the deal "recreates barriers that have not existed for decades". In a sense, it is an act of deliberate predictable fragmentation in our sector, but of course, as Miles said, we are talking about regulated activity, and the regulators and firms have worked together for several years to address that problem.

To spell it out, UK-based firms offering services into the EU have all had to seek to set up new licensed entities on the continent, if they did not already have them, and to repaper their EU clients to those entities. That process has worked well. We hear in the discussions with member states, which we and TheCityUK conduct together, pretty positive feedback from the other side of the table. There are some questions in some member states about whether the repapering exercise was really completed by the end of the year, but the larger firms certainly tell us that it was, and I think it has been very successful.

For EU firms servicing the UK, of course life has been a bit easier because the UK has created a temporary permissions regime, which has worked very well. They have not had quite the same cliff-edge issues to deal with. None the less, the EU firms are subject to certain rules, typically market rules such as the share trading obligation, the STO, and the derivatives trading obligation, the DTO, which they still have to comply with. There were certain cliff-edge factors for them, too, so we saw, entirely as expected, share trading and equity trading move on 4 January. That was a known unknown, not a shock.

On financial stability issues, which were, correctly, the primary concern of the regulators, particularly the central banks, the fact that the EU had already moved to grant equivalence for clearing has solved that cliff-edge issue, at least for the end of December cliff edge. Miles is right: we should congratulate everybody on doing a good job.

The Chair: What about unexpected developments?

Miles Celic: I do not think we have seen any so far. One of the things that has been interesting—this is not necessarily solely connected to the end of the transition period—and will be interesting over the coming days, as we get the data in about how companies are adapting, as and when trading or further activity moves following the end of the transition period, is how much of it will go to the EU and how much of it will go outside the EU.

We are already seeing indications, as we have said for some time, that New York is going to be one of the big winners. There is logic in large financial services institutions and financial services activity tending to be drawn to areas of scale, of mass. They have a magnetic effect. There are two major international financial centres. One is London and the other is New York. That is not hyperbole or flag waving. It is just a reflection of

the reality. The US has a number of equivalence determinations in place already, so there would be a logic in activity moving to the US, and we have been seeing that. To use Nick’s terminology of known knowns and unknown unknowns and so on, that has been a known unknown, or even a known known. What will be interesting is the pace and volume of that shift over time.

Nick Collier: The other unexpected development was of course Covid, which has meant that, physically speaking, firms have been constrained in moving people. In other words, I do not think we have yet seen the full shake-out of relocations from firms.

Miles Celic: Covid has acted as an accelerator, and Nick is absolutely right to raise it. The point we have always made is that any projection of job shifts needs to be considered not at the cliff-edge point at which we left the EU or we left the transition period, but as the implications of the shift in business take place, and the implications of the shift in regulation, which I am sure we will come to later. An important point is that that shift in regulation will take place on the EU side just as much, if not more so, than it takes place on the UK side.

The Chair: Those changes and moves will be monitored, presumably, very carefully over the next year to see why and what happens.

Miles Celic: Inasmuch as we can. There has always been a churn in jobs moving between London and centres in the EU. That is reflective of shifts in activity, changes in company strategy, demographic shifts and economic shifts. Sometimes it is difficult to identify whether a shift is due specifically to Brexit, or whether it is due to decisions that a company would have taken anyway.

It is instructive to think of Brexit not solely as an event in and of itself. There are similarities to the economic effects of Covid. Covid has acted as an accelerator of pre-existing economic and social trends in areas such as remote working, exactly as we are finding, literally at this moment. In many ways, Brexit has acted as a strategic accelerator for decisions being taken in the EU, and in the UK, on regulation, and decisions being taken within firms themselves. What will be instructive will be looking at what happens to the UK as an international financial centre not just vis-à-vis its relationship with the EU but vis-à-vis its relationship with other parts of the world.

Two areas in particular will be instructive. The first is what happens with the trading and regulatory relationship with the United States, which remains the largest partner for the UK as an investor in both directions, and the largest single national market for the UK in financial services. The second is what happens as we continue to see economic growth in Asia, the growth of an Asian middle class and, as often happens in a development curve, the often almost exponential growth of consumption of services, particularly financial services, as people have savings that they want to invest, or they want to prepare for retirement. Those are all

complex factors of which Brexit is an important part, but it is one part of a much wider kaleidoscope.

The Chair: Thank you. That is very helpful.

Q2 **Baroness Prashar:** Setting aside for now the accompanying joint declaration, how do you assess the section on financial services in the EU-UK trade and co-operation agreement?

Miles Celic: From our perspective, it is not unexpected. As I said earlier, we have known for some time that there would not be a huge amount on financial services in it. I think the Prime Minister and the Chancellor have said that they would like to have done more on that. I am sure we will come on to the joint declaration later. It is welcome that there is a clear commitment that disputes in one part of the economic relationship will not be, if you like, taken out on financial services.

From our perspective, more broadly, there are two things that I would point to. First, we had known for some time, as we said in the letter and submission we sent to the committee back in November, that we could not expect a huge degree on financial services. It has been predominantly focused on goods; it is an FTA in the classic sense in those terms. But the fact that there is a deal is very welcome.

We were hearing from conversations that we were having in Brussels with member states, and in European diplomatic audiences here in the UK, real concern over an acrimonious exit. It would have been possible to have an acrimonious deal, but it would have been absolutely difficult to have a non-acrimonious no deal. We think that avoiding that acrimony has been particularly important on a strategic level, because it means that we have in place a foundation or platform that we can build on—a launchpad for further engagement. That should not be lost sight of. Just having a deal was important to our industry. Ultimately, the people who are covered much more by a deal tend to be our clients. We are interlinked with the rest of the economy, so it is especially useful.

In other areas that the deal and the arrangements cover, the steps that have been taken on data are encouraging. Obviously, we would like to see a full data adequacy decision, but there is a bridge in place. We have been arguing for some time for the steps on mutual recognition of professional qualifications. Hopefully, further progress will be made on mobility. Those are areas where the industry, and everybody else, welcomes the fact that there is a basis to build on, that progress has been made and that we have avoided no deal. There seems to be a desire on both sides to look at how we drive this further.

Baroness Prashar: Thank you.

Nick Collier: I have little to add, because Miles has explained things very well. We should be—we are—honest: it is disappointing to both sides that there was not more ambition on services, including financial and professional services, but that is where we are. As Miles said, we now have a deal that we can build on.

There are some crumbs of comfort. One is the dialogue, which I know we will talk about. There is a nice reference, for example, to working together on international standards. That is particularly important for financial services, because generally, particularly in wholesale financial services, we operate under international agreements. I hope that will be picked up in the dialogue. As Miles said, there is no cross-retaliation mechanism applying to financial services. I am not a trade expert, but I do not think there is an MFN provision either, so potentially we can do deeper deals with others now that we have taken back control of our trade policy. Indeed, as Miles says, there are some limited gateways, as it were, at national level for financial and professional services. Anyway, it is a start and we will now work together to build on it.

Baroness Prashar: As you say, it was pragmatically a good thing to do and it provides a platform, but are there any weaknesses in the platform?

Miles Celic: That remains to be determined. The MoU, which I am sure we will come on to, will be a core foundation of that. It also depends on your interpretation of weakness. What is absolutely clear, and has been for some time, is that decisions on equivalence and the big ticket decisions on regulation will be taken unilaterally. There is no mechanism for joint decision-making. Depending on your view, that is either a strength or a weakness of the deal and the arrangement we reached with the EU, but it has been absolutely clear, I would argue, for at least two years, that that was the direction we were travelling in.

Nick Collier: Specifically on the European side, the equivalence provisions that have now been built into many pieces of EU legislation were not designed for the UK. They were designed for recognising credit rating agencies in Asia or in the US, for example. Typically, those things were built into the measures taken after the financial crisis. At that point, no one had thought about the UK. They had some difficulties with Switzerland, but the nexus for the EU with the UK is, of course, significantly deeper than the nexus with Switzerland. One hopes that that will allow the EU to take time to think about how it handles the UK.

On the UK side, likewise, we have not specifically had to think about the EU. In wholesale markets, our tradition has been to be much more open to wholesale market service provision in, and so, to some extent, EU service providers benefit from that slightly different philosophical approach.

Baroness Prashar: Thank you very much.

Q3 **Baroness Neville-Rolfe:** As has already been signalled by Miles, the joint declaration on financial services commits the parties to agreeing by March a memorandum of understanding establishing a framework for structured regulatory co-operation on financial services. Is that realistic, and what form should the structured co-operation take to ensure the best result? Miles, you have had quite a rosy view so far. Do you want to go first?

Miles Celic: Sure. From our perspective, the MoU is welcome. We have argued for it for some time. Hopefully, it will provide a basis for structured discussion, dialogue, information sharing, and early warning systems between the regulators. The regulators know each other on both sides; they have all sat on the same committees and worked on the same legislation. Let us be clear: in many ways, British regulators have had the lead in the EU. That is partly down to the quality of our regulators in the UK, and that is genuinely a national asset. The reason we have good regulators is that they have to be; they are regulating one of the two major global financial centres. British regulators have a natural greater share of voice. The need, therefore, as we headed out was not just to depend on pre-existing relationships, but for there to be some kind of architecture for information sharing. In industry, we felt that was really important, so the desire to put something in place is welcome.

We have to be clear-eyed and realistic about what it is and what it is not. An MoU has negligible legal effect. It will depend on good will and convention and practice on both sides, and I think that exists. As I said earlier, it is explicitly not a joint decision-making mechanism. It is not, in our view, something that will put in place a whole new approach to combined decision-making in regulation between two jurisdictions. It is to ensure that there is the ability for the regulators to work together, and that there is a forum and a mechanism to do that. It is a necessary but not sufficient part of the longer-term relationship between regulators. That has also to continue to be based on trust and mutual respect.

Baroness Neville-Rolfe: Nick, do you want to come in? Is there any more information on what form it should take? Miles talked about the regulators. Would the Treasury be involved as well?

Nick Collier: There are two ways of answering that question. I took another look at what was actually published, which I think is commendable. It is short and very clear. As Miles has just said, it says that the two sides should talk about what they are doing on regulation—sharing ideas and sharing a forward look. That is very sensible. It talks about equivalence in a broad sense. The text is very clear that it is without prejudice to the autonomous decision-making processes that are hard-coded in the EU legislation on equivalence. Of course, we have transposed that, at least for now, on the UK side, so the same applies here. Transparency over the process is a very important point for us in the industry.

We would, by the way, hope for a bit more push on consultation with industry on the whole dialogue from both sides. There needs to be enhanced co-operation and co-ordination, particularly in the international bodies. That is very important, because the UK and the EU, and indeed some of the member states, sit together in the G7 and the G20 and the bodies under the FSB. I think they co-operate well at that level. That dialogue, as set out in the text, is very sensible. The answer to your question is yes, the Treasury would lead for the UK, but the agencies—the Bank, the PRA and the FCA—would be at the table, and the EU side

would have the ECB, the SSM for banking supervision, and the ESAs, including ESMA and the EBA.

I think the model the EU has in mind is the American model, which used to be called the financial markets regulatory dialogue and was upgraded a couple of years ago. I think they now call it the regulatory forum, or something like that. Its origins are quite interesting. They go back to the early 2000s, when an extraterritorial dispute, what we would now call equivalence discussions, was going on. The most difficult one was the application of Sarbanes-Oxley in Europe. The two sides came together. The US Treasury brought its agencies to the table and on the EU side there was initially the Commission and, as it created the European framework with the European supervisory authorities, they were at the table too. The regulators had their own bilateral dialogues underneath that framework. I think that should work well.

It is an obvious thing to say, but we start from an initial position where we have the same rules. We have very similar financial systems, in fact. Many of our major stakeholders, the financial firms, will be operating on both sides and will want as much co-operation as possible. They will want to avoid frictions and, ultimately, to find each other equivalent as much as possible. Another point is that we should not forget that co-supervision exists today and it will exist tomorrow. The two sides co-supervise enormous parts of the financial system already, and that works very well.

The feedback we get from the EU side is that it is very confident that it can have a very positive, deep and fruitful dialogue with its UK counterparts. We hear that both from member states and from the EU authorities—indeed, specifically, that we can have a deeper dialogue than the EU currently has with the US or with Japan.

As a small point, it would have been preferable from our point of view if we could have embedded the dialogue in the TCA and the FTA itself. That is what happened with Japan. I am not entirely sure why it could not have been embedded in the text. Never mind. We are where we are and, as Miles says, it is not a legal body anyway. It is a talking shop, but it should be very positive.

Looking forward, it is not rocket science to say that there are various common major challenges faced by the regulators and financial services on both sides, not least the recovery from Covid. There is also green finance and the challenge of sustainability. Both sides are seeing a sector that is increasingly digitised, so there are the challenges of dealing with digitisation. Immediately, there is a pretty full agenda for the first meeting, so I think we will see that dialogue kicked off as soon as possible.

Baroness Neville-Rolfe: Thank you for that. From what you have said, this new machinery should build up the trust that several of our witnesses have said is absolutely critical. Thank you very much.

Q4 **Lord Vaux of Harrowden:** The European Commission has said that it

cannot finalise its assessments of UK equivalence without further clarification about how the UK intends to diverge. HM Treasury has said that it has provided as much clarity as it can. Is it realistic to expect any further equivalence decisions from the EU?

Related to that, the Governor of the Bank of England said last week that, if the price of equivalence is too high, the UK cannot go for it. Do you agree with him? What would be too high a price, in your opinion?

Miles Celic: We hope that there will be further equivalence determinations from the EU. The rules, as they currently stand and which the UK has onshored, are, in effect, identical. In many ways, they are word-for-word identical. The inoperable—where a previous piece of legislation referred to the ECB, for example—is where the changes have tended to be; the ECB has been changed to the Bank of England. Otherwise the rules are absolutely the same.

In conversations that Nick and I and others have had in Brussels and other parts of the European Union, the concern is, and has been for some time—in my view, it is misplaced concern—that the UK will go down some bonfire of regulations route. Together with the attempt to use equivalence, in the way the EU often does, as a further form of leverage in negotiations on a trade deal, that has been part of the reason why we have not seen the equivalence determinations on the EU side.

It was hugely welcome, as I think Nick has already said, that the UK simply took the view that it was going to allow a unilateral approach to equivalence. It was the right approach. It sends an important signal about the UK's openness and its commitment to an international approach, and being attractive and welcoming to international business. We hope that the EU will look at these things in a similar way.

However, there are a couple of things to add. First, it is a dynamic situation. Sometimes, there is an impression that any divergence will be solely on the UK side, as over time we refine our regulations and our legislation to adapt to being a market of one country with terrific—hopefully—international engagement with other markets, as opposed to being one of 28, which you inevitably have to reflect in the way that regulation is pulled together.

The EU is also going through a process of changing its regulation and, indeed, in many ways the philosophy underpinning its regulation. We still do not have a clear sense of what open strategic autonomy the new basis that the EU is taking for regulation and for its economy means precisely for financial services. We are told that we may get something later this year that sets that out in more detail. The EU is reviewing a number of the individual directives and regulations that form the body of its framework in that space, so we have a dynamic situation and two moving targets.

A number of people have raised the point that the longer we do not have equivalence on the EU side, the more the concrete will set. Companies will have moved people, got regulatory licences, moved capital, and will

have done all of that in expectation of financial services not being a major part of the final deal. Once that is done, those are costs that companies have incurred. There are therefore further costs in shifting business back. Also, as we talked about earlier, if you can do some of this business from the United States, do you need to be, in some cases, in the EU at all? It is much more complex than a binary on/off switch of equivalence. There is an almost theological debate about precisely how many forms of equivalence there are. There are those who will argue that some forms of equivalence are more important than others. That is not a position that we would take, for a variety of reasons.

On your question regarding the price for equivalence, ultimately that will be a decision that government and regulators will have to take. Our view is, first, that the fewer the barriers, the fewer the hurdles that customers have to go through, and the lower the costs, the more effective that is, and the greater the efficiency, although obviously it needs to be reflected on with what is clearly increasingly a market location policy rather than a market efficiency policy on the EU side.

Having equivalence means having equivalence. I remember talking to a very senior Commission official a couple of years ago, who was quite optimistic that the UK could get equivalence. His view was that the rules, in essence, would be the same on day one, but as he put it, "You can have equivalence. However, we will implement equivalence with you much more closely and tightly than with any other jurisdiction". That is because of the depth of the nexus between the EU and the UK, as Nick has talked about, and the dependence in many ways that the EU has had on the UK as its international gateway to international markets.

The question will not just be what you get with equivalence simply by having an equivalence determination. It will be how the EU then supervises equivalence, how the EU approaches withdrawal of equivalence, and how the EU approaches divergence. It could well be that it approaches that divergence, or any divergence or any changes on the UK side, much more restrictively than it would for any other jurisdiction because of the importance of the UK to the EU in this field.

Lord Vaux of Harrowden: Nick, do you want to add anything?

Nick Collier: I have a couple of points. First, as we discussed in answering the question about the regulatory co-operation text, the MoU will not deliver equivalence. It is important to state that for the record, because there has been some expectation in the industry, and in the press, that somehow that will unlock all the equivalence provisions. Miles is right. I do not think it will. Hopefully, it will unlock some, perhaps most, of them, but it is not an automatic linkage, and I am sceptical about it opening up those in capital markets where, from the EU perspective, the imbalance is significant; in other words, much of the capital market activity in the euro is currently in the UK, and there is clearly a political and regulatory push to onshore it, to use their language.

There was testimony in the European Parliament, I think earlier this week, when officials said that equivalence means exporting EU rules. That is a very American approach, if I may say so. It is not acceptable in many jurisdictions around the world. Over the last few years, I have listened to many howls of anguish from US and Asian regulators about the EU's approach to equivalence. It clearly does not work in the long run. As I said earlier, it does not really work for the UK, and it was not designed for the UK. One hopes that the two sides can come up with a better way of allowing some kind of mutual access.

In particular, the line-by-line approach to equivalence does not work. We have argued for a different approach, and the International Regulatory Strategy Group at the City of London Corporation and TheCityUK has issued papers on that in the past, which I am sure the committee has seen. By the way, recently there was an excellent paper from AFME—the capital markets trade association—talking about a better approach to equivalence. It should be more outcomes based. Indeed, as we may discuss in a moment, the UK has higher standards in securities markets than the EU. It is not a question of having lower standards. There is no intention to diverge to lower them. I have made the point many times to EU regulators that we will continue to have higher standards, so not finding the UK equivalent now is absurd.

A particular example is the share trading obligation. A lot of EU European equity trading is traded on platforms in London subject to the European rules. Of course, the UK was highly instrumental in drafting the rules. Some might say we held the pen for the last 20 years for many of those rules. Indeed, privately, and possibly even publicly, key European regulators such as those at ESMA will say that the UK has been by far the dominant regulator, because it is the dominant regulator and supervisor in securities markets. The STO decision was essentially a political decision not to grant equivalence to the UK platforms, as it was—for those of you who followed the story—with the Swiss earlier last year. It was essentially a political decision, not a technical decision. We would like it to go back to being a much more objective decision and a much more outputs-based process.

The EU is increasingly out of line with the international thinking on that. The international thinking, which we strongly support, has been coming out of the G20. There was an excellent paper from the Financial Stability Board, and some excellent work in IOSCO, the global securities body, talking about how to counter fragmentation in securities markets and the increasing use of deference, which is the term that now seems to be widely used. Others have different terms for it, but it is some form of equivalence and mutual recognition—in other words, relying on others' rules that are not necessarily identical. That is surely the right way forward.

It would be nice to consult the user sometimes on this kind of thing. If you consulted the users on the impact of the trading obligations applied to Swiss shares, you would have a very clear view from all sides,

including, of course, European investors, who suffer from a lack of choice. Let us look at the costs of fragmentation a bit more, and perhaps that might help in future.

In answer to the question of whether we will get it, on the areas where there is clearly a political push to onshore activity, particularly in euro assets, to build up the international role of the euro, and particularly on grounds of financial stability—clearing is the obvious case—there is a very clear view from many in the EU about using the lack of equivalence to force a lot of that business onshore. How much of it? That is to be decided, but you hear the phrase, "We need to rebalance capital markets between onshore in the EU"—particularly in the eurozone, I should say—"and in the UK".

Lord Vaux of Harrowden: Thank you.

The Chair: This is such a central area for the committee that we may want to come back with supplementaries on it. Lord Bruce has a related question.

Q5 **Lord Bruce of Bennachie:** Yes, it follows from that, but I will slightly rejig it in light of the answers we have already had. Miles, you said that since the referendum you had hoped for the best and prepared for the worst, and we have had exchanges with you during that period. You have also said that you did not want to prioritise which areas of equivalence were important, but that appears to be what the Government are asking you to do. They have indicated some areas that they think are more important than others and some that are not important at all. How do you react to that? How much energy do you think should be expended on equivalence, given the political dimension to it, as opposed to working with reality?

There are two other things. One is the 30-day rule. An article in the *Mail on Sunday* said that it could be included in the discussions for the MoU, which does not have legal force. What do you think the prospects of that are?

Can you give us an indication of what it all means for employment and revenue in the UK? You said that it will occur over time. It is not a cliff edge. One of my colleagues said that it is more like a slow puncture, as people gradually move. We are not just interested in how your sector and your clients will conduct themselves, because they will do what they have to do to protect and promote their business. Those decisions may have negative implications for revenue and employment in the UK, and as a committee I think we are as interested in that as we are in the success of the sector.

Miles Celic: I will try to unpack those elements, but if I miss anything please come back and I will make sure that I cover it. It is the nature of the way that TheCityUK operates that we represent the entire financial and related professional services ecosystem, so you may find slightly different answers in individual sub-sectoral organisations or individual companies.

We tried to run an exercise where we scored the various forms of equivalence according to their importance. We found that any single form of equivalence was important to somebody, so, from an industry perspective, we were not able to say, "Here is the single most important form of equivalence", followed by subsequent forms of equivalence that might be the seventh or the 12th most important. Everybody had something they wanted from equivalence, or there would be somebody who had something that they wanted from it.

That also speaks to the nature, in any case, of the relationship between the UK and the EU. We had every single form of the directives when we were members of the EU, and we now have them onshored as we have left the EU. There is a principle. As we have discussed already, if we have exactly the same rules in place, why should the EU be saying, "You're equivalent in this area, where your rules are identical, but you're not equivalent in that area, where your rules are also identical"? It goes back to the point about expectation and the management of divergence and equivalence.

Nick and I were in a meeting before Christmas with a very senior EU official, who said, "Look, you need to understand that we look at equivalence as a way of managing alignment—a third country aligning with EU rules and remaining aligned with EU rules—whereas clearly what will happen with the UK is that you're going to diverge from EU rules". You can argue the extent of that divergence. I do not think the divergence will be particularly radical, certainly not in the short term. As has already been alluded to, in areas such as fintech, data and green—the future areas of the industry that we are evolving into—we may see greater shifts. As regards the body that has been put in place already, I do not expect radical divergence on either side. I think both sides will fine-tune it over time.

As regards the 30-day rule, some forms of equivalence have a 30-day notice period, and some forms of equivalence have no notice period whatever. In conversations that we have had in the EU, there is recognition that as the EU reforms equivalence, a process it is going through, that is something it will want to look at. We spoke to a senior Treasury official in a very large member state who said, "Well, perhaps we can move to a standard 300-day notice period for withdrawal of equivalence".

There are issues. Over the last four years, we have gone through the greatest experiment, the greatest example, in the withdrawal of equivalence. We have taken, essentially, four years, between the UK and the EU, to get to a point where that equivalence has been withdrawn. We used to be told by the EU, whenever we raised the 30-day question as a problem, that nobody had ever had equivalence withdrawn, so in essence it was an academic question. Actually, equivalence was withdrawn before the UK left the EU. Five countries lost equivalence on credit rating. In practice, there was a five-year process of ongoing discussions and negotiations between the EU and those countries, with the EU urging or

discussing whether they would change their regulation and their legislation to maintain equivalence.

It is about recognising the reality, and the EU having some form of mechanism that recognises the reality that it is a process. In our view, there should be opportunities for countries to be told, "Right, you're now reaching a point of divergence that we are uncomfortable with. This will open a process, open a dialogue. You'll be given time to decide whether or not you want to adapt or amend your legislation and regulation to maintain equivalence".

You sometimes get into an almost philosophical debate on the EU side about whether that is a watering down of EU sovereignty, and that turns it into a joint decision-making process. Certainly, for some in the EU, that is an intellectual exercise that they are not entirely comfortable with. It goes back to the point that equivalence ought to be a unilateral decision. However, equivalence is becoming increasingly politicised, which Nick has already spoken about. In a speech at the end of 2019, Bruno Le Maire, the French Finance Minister, talked explicitly about financial independence for the EU and building a sovereign financial capability in the EU, and therefore looking at the approach to standards of regulation with that strategic—one could argue political—objective as a key lens.

It all remains to be played for, and it is a very live debate within the European Union. At the moment, as I said earlier, the market location policy definitely has the upper hand, from the conversations we have had. It is about pulling activity into the EU to create that sovereign capability. There has been a pendulum in the debate over recent years between market efficiency and market location, and we will have to see how that plays out, especially with the UK now outside, and not making the case for a much more market efficiency model.

With regard to your question on employment and revenue, the EY Brexit tracker, which is probably the best in class for tracking the impact of Brexit so far on financial services, suggests that somewhere between 7,000 and 10,000 jobs have gone from the UK as a result of Brexit. The Oliver Wyman analysis, which we commissioned early in the process, suggested that up to about 35,000 jobs in financial services would go from the UK as a result. The Wyman analysis always said, and I think this is an important caveat, that that would be up to about five years after the UK had left the EU and gone out of any transition period. We will need to see what the UK does on steps to maintain attractiveness, to maintain competitiveness, and what the EU does on the other hand.

It is important to put it into context. There are about 1.1 million jobs in the UK financial services industry and 2.3 million in the broader ecosystem. I would caution that jobs are often a bit of a red herring. People can recruit locally instead of moving a job from London or Edinburgh or Manchester or Birmingham to Frankfurt or Dublin or Amsterdam or Paris. That is difficult to track.

Probably a better guide is the economic shift, the economic activity. The Wyman analysis suggested that in a worst-case scenario about 40% of EU-related activity that takes place in the UK could shift, some of it to the EU and some of it elsewhere. Give or take, about a quarter of the activity that takes place in the UK is related to the EU in some form. As I say, ultimately it will be dependent on what happens on decisions on equivalence, what happens with the way the EU reforms its regulatory approach, and what happens with what the UK does as regards the steps that the Treasury is already taking in modernising and continuing to make the UK an attractive place to come and invest and do business.

Nick Collier: I do not have much to add. That was excellent, Miles.

Equivalence, generally, is not about market access, because the EU has a regime where, if you want to conduct an investment service, insurance or banking, you need an EU licence. It does not cover normal banking or life insurance. There are provisions on access for reinsurance and for investment services. Getting equivalence for investment services, for the political reasons we just discussed, will be unlikely for the time being, because essentially the EU would see that as allowing the capital markets to stay in London.

The consequences of blocking access to all investment services, and I guess the same goes for reinsurance, are that you are blocking access to a global market. That is the point Miles was just making. It is not, for example, just euro government bond trading. It is commodities trading, or international securities trading or foreign exchange derivatives trading, all the international markets where London is very strong. Over the last 20 years, London has added to that international centre of activity European activity—EU activity—and to some extent, as the Wyman analysis shows, that goes back. It is what Chris Giancarlo, the former chairman of the CFTC, said in, I think, his farewell speech in London two years ago; it is a sort of mean reversion. There is a strong element of truth in that.

The EU has to work out for its own users—its own large industrial companies, for example, which want to hedge in the commodity markets—how it grants them access to those markets, because those markets are not in the EU and, frankly, they will not be in the EU. If they leave London, they will go to Asia, or Chicago, or New York, or somewhere. A very practical problem for the EU is how it thinks about those things. As Miles said, it is reviewing its equivalence procedures. Once things have calmed down, and perhaps rebalanced a little, to use that term, we can have a proper discussion about that. Obviously, to argue that those markets in the UK are less well regulated or less well supervised does not make sense. We would argue very strongly that the levels of regulation in the UK are higher, and the standards of supervision are higher, at least for the time being. There is not really a technical case for not granting it. It is a political case.

Lord Bruce of Bennachie: Thank you. That was fascinating.

Q6 **The Chair:** My question is a bit of a continuity effort. You raised the issue of the 30 days. What I am intrigued about is that the joint declaration says that parties will seek transparency and dialogue when it comes to adopting, suspending or withdrawing equivalence decisions. You have mentioned the potential global politics, as well as the politicisation of the subject of equivalence. How easy will that be, when some of it will just be hard bargaining about equivalence over the period?

I suppose I am intrigued because, as a former chair of ACAS, I know that it is incredibly difficult to get involved in hard bargaining and at the same time have complete transparency and open dialogue. Miles, I think you gave an indication that there will be a long hard slog over a period, and that it will not all happen straightaway. How do you see that? How do you see the practicality of the transparency and open dialogue?

Miles Celic: I am sure Nick will have a view from the conversations he has been having. From our perspective, you are absolutely right, Chair: the need for open and transparent dialogue is incredibly important. The problem with equivalence is that it was already politicised. Sometimes equivalence decisions were technically driven, but when we spoke to those involved in those decisions before, we were told that often a dossier, a file, would be put on a senior person's desk in Brussels, and they would be told by somebody, often not involved in financial services at all, that there was a negotiation going on, whether it was on free trade or something else, with another country, and they wanted to use equivalence as a sweetener or a leverage mechanism in that particular negotiation. That is not to suggest that the EU was willy-nilly handing out equivalence determinations to countries that did not meet the standards. It was that there was another element in the decision being made.

We feel that the ongoing politicisation of that process would be a retrograde step. In our view, as businesspeople, regulation should obviously be conducted according to broader political and social objectives set by a Government, but the regulatory process itself should be entirely technical and independent, and based on hard practical outcomes and determinations. Given that the EU and the UK are quite clear, as we have said, about the unilateral approach that they are taking on the granting of equivalence, it is therefore about making sure that the process operates in the most optimal way possible.

Nick is absolutely right. The minority of equivalence decisions are about market access. Most of them are about regulatory treatment. That being the case, it is entirely sensible to ask what process is to be put in place, what is the schedule or the timescale and where are the points of consultation that each side can have with each other. It is not about the decision necessarily, because that appears to be out of bounds, but about how the decision is implemented, and whether steps can be taken to go down a different element of the decision tree. We think that would be an entirely reasonable way forward, but you are absolutely right that the broader politics, the macro elements, remain a factor. We hope that they will reduce as a factor over time, as Brexit, frankly, becomes a bit less exciting.

The concern I would have is that we were told pretty early on in the process that, in some ways, the worst outcome for the EU would be a Swiss-style relationship with the UK. It was described to us, particularly in financial services, as being like a relationship with Switzerland on steroids, because of the scale of the UK. Nick has talked about the dominance of the UK in capital markets in Europe and in a number of other areas of financial activity. What would be deeply regrettable, and absolutely not in the interests of either side, would be if we lost the tentative but hopefully positive approach that we currently have and end up with an ongoing scratchy, slightly pedantic relationship that goes on for year after year after year, with constant negotiation, renegotiation and bargaining. In my view, that would have a corrosive impact on trust. We can talk about structures, mechanisms and architecture, and they are important, as I said earlier, but the real underpinning has to be a relationship based on trust between both sides.

Nick Collier: Transparency means a number of different things. Being transparent with each other is core to it, and I think that is the core of the meaning in the text. As Miles said, it is all about building trust.

We both have regulatory systems that are pretty transparent. If you are proposing to reform Solvency II, which is very topical on both sides of the channel at the moment, that is pretty transparent. Both sides consult on it, stakeholders comment on it, and of course there is parliamentary oversight on both sides. I do not think there would be any surprises on changes in regulation. Specifically on equivalence, there should be no surprises in equivalence findings if the process works well. That would be my measure of success.

The details can get very technical. To give you a very specific example, when the EU was working out whether to find the US clearing houses equivalent, it went into enormous micro detail about the prudential supervision of American clearing houses—much to the frustration of the American agency officials dealing with it. It worked at the end of the day. Of course, it is not a secret what the rules are in America, nor is it a secret what the rules are in the EU.

The other part of transparency that is really important is talking to the practitioners. At the end of the day—clearing houses are a very good example—the people who care most about the safety and soundness of clearing houses are the banks that have their money in the clearing houses. Talking to the banks about whether they think they are broadly similar is a very good way of coming to a conclusion on broad equivalence. Transparency is very important to the private sector.

At the moment, I do not think equivalence is the basis for a business model for our firms, partly, as you say, because of the 30 days. Also, as Miles said, if you have spent four years working out what to do in your operation in whatever European city it is, you have not really hard-coded equivalence into that. To build trust and have a new way of doing it that could lock in some kind of mutual dependency, using deference ideally, which is the global solution, would be a much better way of doing it.

I know you want to ask about UK regulation generally, but specifically on equivalence, on the UK side, I hope that the UK will have a different approach to how we handle overseas firms—third countries, to use the EU phrase. I would abolish that phrase. Indeed, I would abolish the words third countries and equivalence.

A specific example is what the UK did on benchmarks after the financial crisis, a particularly favourite subject of mine. The UK decided to regulate the significant benchmarks. It went through Parliament. I think there were five, six or seven core benchmarks, including Libor. But the rest of the world did not do that. The EU approach was to require all benchmarks in the world that could be used in the EU to be approved under an equivalence process. Practically, it does not work, and I think that privately the Commission would probably admit that now.

That was an interesting difference of philosophical approach. We do not quite know how that will work if those two different philosophies are on either side of the table in this dialogue. At the moment, the UK has unilaterally granted equivalence. The UK, rightly I think, does not see it as a mercantilist trade negotiation. It sees it as putting the customers first, putting the user first, offering choice to the user and letting UK-based professional users have access to services provided either under exemptions in the UK regime, the overseas persons exemption in particular, or by granting EU equivalence under the onshored equivalence regimes we have put in place in the UK. I hope that sitting alongside each other will encourage the EU to reform its equivalence regime a bit faster.

The Chair: Thank you very much. That was absolutely fascinating.

Q7 **Lord Sharkey:** My questions are to do with regulatory divergence and competitiveness. You have already talked extensively about the interactions between divergence and equivalence. In your written evidence, Miles, you identified the need to avoid accidental or unintentional divergence, both between the EU and the UK, and globally. How real are the risks of accidental or unintentional divergences, and where do the risks lie?

Turning to FSFRFR, which I must say is a breakthrough in six-letter acronyms, the consultation paper said that there is a risk that "a new competitiveness objective for regulators could distract from or dilute the key stability, market integrity and consumer protection objectives". What are your views about that, and getting the right balance in that area?

Miles Celic: On the point about accidental divergence, which exists on both sides, we have already talked about the review of Solvency II, and as there are reviews by both sides of Solvency II I will use it as an example. Both sides will look at the requirements they now have for their individual markets. I would have thought that there will be a school of thought in part of that that those decisions should be made absent a consideration on the EU side of the impact on the UK, or, indeed, on the UK side of the impact on the EU. They should be made in isolation, solely dependent on what is required for the home market from that particular

directive in light of customer need/societal need, et cetera. If you take that approach en masse across the body of regulation, without thinking about the impact on an equivalence determination or, over time, a mutual outcomes-based equivalence process, you diverge by accident, by not giving due consideration to the impact of equivalence on the third country relationship.

I have to say that I have not seen a huge degree of evidence of that at the moment, because everybody is so sensitised to the relationship on both sides. From the UK side—and this is a purely personal observation—because of our role as an international financial centre, and because of the approach which the Government are rightly taking on being open and being attractive to foreign business, as seen by the unilateral approach on equivalence, I do not think that the UK will instinctively take that approach on a deliberate basis.

On the EU side, there are those who take the view, "We'll set the global standard, and it's for others to align with us. It's not that we are diverging. It's that others are not continuing to align with the EU". Certainly, in some of the early conversations that we had on Solvency II, that was absolutely the mindset: the EU was going to set the global gold standard on insurance, and others were then going to fall into place. That led to differences of approach. Some countries absolutely did. Other countries, typically bigger countries with substantial financial services or insurance markets, said, "Fine, we'll take account of that, but we're pretty confident we have a reasonably good regulatory regime here in our own country". That is what we mean by the risk of accidental divergence. As I said, it is dynamic on both sides. It is a moving target on both sides.

The competitiveness piece is particularly important. There is absolutely a desire from the regulators, and from government, to look at how we can do things differently; how we can refine and fine-tune. I do not think there is a radical deregulatory agenda at all. The impression we get, and certainly what industry would be much more supportive of, is a focused, targeted and tailored re-regulatory agenda. You take a part of the rulebook that we have taken on board, or part of the directives or regulations that we have onshored, and say, "Great, this worked fantastically for a market of 28 countries, which was predominantly focused on its internal dynamics, but how do we tweak it? How do we fine-tune it? How do we get the screwdriver out and tighten one screw here and slightly loosen another screw there to meet the needs of a market of 66 million people that has a world-beating, very successful financial services industry, and help to drive that from the point of view of international competitiveness, hard-wiring that into the economic relationship with other countries?"

As you rightly raise, we need to strike a balance between competitiveness, consumer protection, standards and so on. Everybody is very alive to that. The approach that needs to be taken does not just balance competitiveness; there are also socioeconomic requirements. We talk about this in a number of the submissions that we have put to this

committee, to government and to others. We have an ageing population in this country. Retirement income provision is needed for those people. We need to renew infrastructure in the UK and invest in infrastructure globally. We need to ensure that we are dealing with the climate change and sustainability challenges here at home and globally.

I would argue that true competitiveness also reflects being able to hard-wire the future areas that the industry is evolving into and the future socioeconomic requirements where the industry can be part of the solution. It is about having a much more holistic, much more integrated philosophical approach to the nature of regulation and what we look for as a society from financial services. Outside the EU, that is a debate that the UK can have tailored to the needs of the UK, as opposed to something tailored to being part of a broader community of 28.

Lord Sharkey: Nick, do you have anything to add?

Nick Collier: That was a terrific answer from Miles. From my Brussels perch, and talking to member states, we get asked all the time, "So you've taken back control. What are you going to do with it? How are you going to diverge?" The sooner we can get away from the language about divergence, the better.

The EU will diverge from the status quo. Brussels, as many of you know, is a giant sausage-making machine for legislation, and it is working at full pelt as we speak. The EU is churning out new things, and it will diverge from the status quo of today. Indeed, one of the reforms coming is on securities legislation, the MiFID/MiFIR legislation, where it looks likely that the EU will deregulate and take out one of the tough rules on research unbundling that the UK put in, so they are diverging—downwards.

Miles is right. What we should be doing is re-regulating, as it were, for the 21st century, hopefully adapting faster and more competitively than other centres, including the EU, in dealing with technology—regtech solutions, fintech solutions—and, of course, dealing with sustainability, and both climate change and social impact investing. On all those kinds of things, we can and should move faster than the EU. It does not mean that we are diverging. It just means that we are doing the right thing more quickly and, hopefully, in a more expert way because we can use the expertise that we have in the City to help design those rules.

I say repeatedly to our EU friends that we have higher standards now, in wholesale markets in particular, than the EU does, and I do not think that will change. When people press us on that, I say, "Talk to the firms". The firms will tell you that. It is partly tougher rules, and it is partly tougher supervision. By the way, tough, good-quality supervision is very important to firms. We have ring-fencing; the EU does not have ring-fencing. We have the financial transactions tax; it generally does not. We have the senior managers regime; it does not. We have unbundling, which it looks like the EU will get rid of. We have a bank levy, which it generally does not. I do not think you can accuse the UK of having a

deregulatory agenda. Miles is right: we see no calls for that from our constituents in the City. What you want is proportionate regulation that is adapting to new circumstances. To that extent, I think we now have our future competitive regime before us.

Lord Sharkey: The consultation document suggests that we do not need to change the regulators' overarching objectives on competitiveness; it can be done within the existing framework. Do you agree?

Miles Celic: Yes, I think it can be done within the current framework and the correct objectives. It is where you put the onus on that. We very much welcomed the slew of consultations and reviews which the Chancellor announced in November, such as on listings, green gilts and productive finance. We think that is important and enormously helpful, and is exactly the sort of thing that needs to be done.

Your question goes to absolutely the heart of the issue. A question we get asked by foreign regulators and foreign Governments when we deal with them is: what is the vision for financial services in the UK outside the European Union? There was a reticence to have that debate during the negotiations with the EU, partly because there would have been the risk of mischief, of people saying, "This is exactly what we feared. The British are about to deregulate". That has never been the aim. It would be helpful for government, regulators and industry if there was a process of consultation. That would be terrific. Certainly there needs to be a clear statement of what we want from financial services, both what they deliver domestically and the approach we will take internationally. Our regulatory approach needs to flow from that strategic national objective.

The Chair: Nick, do you have anything to add?

Nick Collier: No.

Lord Sharkey: Thank you.

The Chair: Thank you very much, Lord Sharkey.

Q8 **Lord Thomas of Cwmgiedd:** I want to ask about oversight in the context of the proposed delegation of powers to the regulators. There are three questions. The first is about oversight in setting the policy. Normally, that would be a question for government, but should Parliament have any role in it?

The second is about the scrutiny of the detail and the contrast of approach by the EU Parliament in looking at the detail of everything. I think the view many would take is that our Parliament simply does not have the resources to deal with that, even if it was desirable.

The third is about accountability for the system that is being created, both how it works and how it deals with any problems that arise. I would like to concentrate, first, on Parliament and, secondly, on what TheCityUK has proposed, which is the office for responsible financial regulation. Could we deal with the questions in relation to Parliament first, because I

think that is what concerns us the most?

Miles Celic: TheCityUK and the City of London Corporation have co-operated on a huge amount of work under the auspices of what is effectively our joint think tank, the International Regulatory Strategy Group, on precisely this question. As you say, Lord Thomas, one of the things that the EU system did extremely well was to have a very clear process as regulation was developed. In some ways, you could argue that it almost did it too well. As industry practitioners, we knew exactly how to engage with that process, how it went through, the consultation, where we would be asked for views, how we could input views, and where we could appeal against views, or processes and progress, which we thought were detrimental to customers.

In leaving that behind, we are moving to a very different perspective. You are absolutely right to raise the issue of parliamentary scrutiny. The ECON committee of the European Parliament in many ways provided that for the European process. The challenge is that it is a huge and very prestigious committee within the European Parliament. It has, I think, about 50 members. It is pretty well resourced, and it operates in a way that is completely different from a British parliamentary committee. It is much more technical, much more granular. In some ways, it is almost a regulatory committee. Asking the UK Parliament to take on that sort of responsibility, asking this committee or the Treasury Select Committee or another committee to do that, would not work. It would be trying to hammer a square peg into a round hole.

The issue of accountability is absolutely central. We are working up proposals in greater depth. There is some terrific work that Julian Adams of M&G has been leading on our behalf, and we will be putting forward further detail on the issue next month. Our view is that there is scope for a joint parliamentary committee, which should be composed of members of the Treasury Select Committee and the EU Services Committee in the Lords, which has a particular interest and expertise in this area. It would be able to call in witnesses and look at regulatory proposals, and provide clear democratic parliamentary scrutiny of what Treasury and the regulators intend to do. It would be able to call on witnesses and experts from industry, academia, civil society and customers, to provide a view, and it could offer an opinion, from the point of view of Parliament, on the strategic direction that government and the regulators were taking. We think that would be very welcome.

It is important that there is a place where others can have input into the strategic direction that is being set by government and regulators. Parliament is, in our view, one of the correct places for that to happen. Clearly, there needs to be a sort of ecosystem as well; there are the various panels of the FCA and the PRA. There will be a role for those that we see as complementary to the wider approach of accountability. Our sense is to have something in place, properly resourced—possibly with secondees from industry, Treasury or the regulators—to provide expertise. We will be providing further thought and detail on that in the coming days.

On the ORFR, the office for responsible financial regulation—

Lord Thomas of Cwmgiedd: May I interrupt you for a moment? When people use the words accountability and scrutiny, they do not necessarily mean the same thing. That is why I tried to separate what I think are the three different processes: first, overall policy; secondly, looking at more detailed proposals—those are really aspects of scrutiny; and, thirdly, accountability for the operation of the system. If in developing your paper, which would be extremely helpful, you were able to address the role of Parliament in respect of those three, I think all members of this committee, and the future committees that will deal with this, would find it very helpful indeed, because—

Miles Celic: That is a very helpful—

Lord Thomas of Cwmgiedd: —I think there is a strong view that the EU Parliament interfered in things it did not properly understand and that it would have been much better left to the regulators. Do not forget that we will follow the common-law tradition and a much more flexible system than the bureaucracy of the EU. Could I ask Nick Collier for his views on that before you deal with your separate body?

Nick Collier: As Miles said, it is an IRSG-shared paper, so I do not have much to add on the IRSG content, and on the work that Julian Adams has done. Specifically on the EU side, it is a very interesting observation. Of course, you have Members you can draw on; Baroness Bowles, for example, can go into great detail on it.

I agree that the EP ECON process does not work very well. To some extent, the work it does on the ECB is quite an interesting example. It is much more similar to what we do in the British Parliament, holding the ECB broadly to account, whereas on financial services legislation it is amending 70,000 pages of legislation, which does not really make sense. That is a very important point. I am sure Sharon Bowles would also make the point that it does that with minimal resources. I know, Miles, you have said that it probably has more resources than you, but compared with the US, for example, it has minimal resources and, frankly, it does not work.

Moving to a different form of regulation, going back to principles-based regulation, as I think the heads of the two regulators in the UK have said is the intention, makes a lot of sense. That should also help you. It would be going back to a lot of the details of regulation being delegated downwards. The EU in theory does that, in what it calls its level 2 and level 3, et cetera, but in practice the European Parliament, as you say, Lord Thomas, gets into far too much detail on those things.

Lord Thomas of Cwmgiedd: I am keeping an eye on the Chair because I know that we are running out of time. Could you, Miles, very quickly explain the idea of the office for responsible financial regulation and how it would interrelate with Parliament?

Miles Celic: We are very alive to the point you raised about accountability and scrutiny. The proposals are currently in draft and they set out specifically what we see as the difference between accountability and scrutiny, and the role of these groups in achieving that. We would be very happy to provide that to the committee once it is finalised.

We see the office for responsible financial regulation as a statutory body, along the lines, in many ways, of the OBR, with a number of specific requirements to contribute to the way that regulation is developed. It becomes a statutory consultee. It is asked for its opinion as financial regulation is developed. We think it would be particularly important for it to have a duty to offer a view on the social and economic impact of proposed financial regulation.

Our view is that the socioeconomic impact of our industry is ultimately the underpinning of what we do. We would not be successful as an industry if we were not providing a socioeconomic benefit, as I touched on earlier, whether that is for people buying a home, saving for retirement or expanding their business, or looking at how we address broader socioeconomic challenges such as an ageing population or infrastructure renewal.

Our sense is that having the ORFR in place would provide a mechanism by which regulatory proposals and regulatory strategies set by government and by regulators can be looked at through that prism, and it can therefore offer a view. The ORFR should be constituted to be able to provide that. So its board should have people from academia and civil society; customers should be represented on it, and it should have appropriate staffing, possibly on secondment from the regulators, possibly on secondment from industry, to provide expert input such that the ORFR can offer views. In the interests of time, I will be very happy to share the final proposals once they are locked down.

Lord Thomas of Cwmgiedd: Thank you very much indeed.

The Chair: Yes, we will take up your offer. It would be extremely interesting to see what your views are in that area.

Q9 **Lord McNally:** The EU has granted the UK a six-month rollover of data adequacy. Who will be doing what during those six months and what can be done in those six months that could not have been done by 31 December? Are there satisfactory replacements of contingency measures? I think you have already answered that they are not fit for purpose, but it would be worth commenting on that. What if even after six months we do not get data adequacy?

I was recently sent a City of London document about the UK-US regulatory relationship, which calls for a transatlantic dialogue on, among other things, data regulation. Are we not moving into the era of three-dimensional chess in data regulation, where we will be trying to accommodate both EU data adequacy and our relationship with our largest financial partner, the United States?

Miles Celic: Do you want to go first, Nick?

Nick Collier: Yes.

Lord McNally: At least, I have got us back on time.

Miles Celic: On the US relationship, I suspect the paper you are referring to, Lord McNally, is by the British American Finance Alliance, which is a gathering of 20 or so financial services trade associations. We lead on the UK side, and it is chaired by Catherine McGuinness, the policy chair and political leader of the City of London Corporation, who is also deputy chair of our board. SIFMA, which is the securities body, leads on the US side.

Data is one of the key areas where there is clearly an appetite among industry to do a huge amount on the US side and on the UK side. We will have to see what happens with the new Administration in the US and the approach that they take. It is notable that the EU-US data privacy shield has fallen by the wayside. That was announced with great fanfare with regard to looking at what could be done on personal data. The EU has, in essence, pulled out of that. It did not cover financial services. We would argue that you could use the EU-US data shield as the model for a UK-US data shield that covers financial services, and you could be a bit more ambitious in that space.

On data adequacy, as I said earlier, we welcomed the bridging mechanism. We are strongly in favour of a data adequacy finding on the EU side. If we do not get that, there are measures that can be taken. There are partial workarounds. You could look at standard contractual clauses. They are one of the most widely used mechanisms in these sorts of circumstances, but they are cumbersome and unwieldy compared to an adequacy arrangement. The risk over the longer term, which I think you allude to in your question, is that the approach that the UK, and other centres—the US, for example—will take on data compared with where the EU is.

We welcomed the announcement in the TCA that there would not be data localisation requirements, certainly in the short term. If you compare the approach on data in the EU-Japan deal versus the UK-Japan deal, data barely figures in the EU-Japan deal, whereas in the UK-Japan deal there is a clear commitment to avoid unnecessary hurdles and obstacles, to avoid data localisation, and to look at what we can do to maintain and enhance personal data flows.

We are concerned about data localisation in the broadest terms. It raises costs. It raises inefficiencies. It is detrimental to customers, who ultimately have to bear the increase in costs and the reduction in services. We have a concern that, globally, there is data fragmentation going on and that there are centres that are pushing for data localisation. The EU, regrettably, appears to be heading in that direction. We would strongly urge the EU not to, and strongly urge the UK to maintain its difference of approach, because we approach data in a very different way.

To the point that Lord Thomas touched on earlier, we were told pretty early on in the process that one of the things the EU and the UK would struggle with was the UK's common-law approach in regulation, particularly in areas such as data, where we find a practical problem and we find a pragmatic solution to that practical problem. As one senior European parliamentarian said to us, "That is why the UK's membership of the EU was never going to work in the long term. You are empiricists. In the EU, we are all about the Code Napoléon".

Lord McNally: Now they tell us.

Miles Celic: It is the old line about the French philosophy tutor who said to his student, "That's all very good in practice, but does it work in theory?" That sort of approach on data would have led, even if we had remained in the EU, to a very different approach between the UK and the EU that we would have had to find some kind of way to accommodate.

Nick Collier: We are just one of the industries affected by the GDPR adequacy issue, so we should not be self-centred about it, but, of course, financial services do not work without personal data, particularly in banking and insurance, so we are very acutely aware of the problem. As Miles said, standard contractual clauses are not an ideal solution and are vulnerable to future legal challenges.

Data localisation is common to other sectors but it is vital to ours, because you cannot run any financial business without data. The way we are different from other sectors is in the prudential carve-out, which we discussed earlier, in the core text of the treaty. There is always a risk in our sector that regulators will step in and say, "But, actually, there's a prudential reason for requiring you to store data here". By the way, we have an excellent IRSG paper on data localisation that we can send you, to cut things short, which summarises part of that. In many countries of the world, we have seen financial regulators trying to do that. Of course, the EU committing in the TCA to free data flows was very important, but there is always a risk that some kind of financial regulation could inadvertently, or perhaps deliberately, impose some kind of restrictions.

Such adjacencies are very important to our core financial services activity out of London into the EU. I want to flag legal services. They are relevant, and I am sure they are on your radar. We do not have time to discuss it today, but we do not have mutual recognition of lawyers. There are some limited services, which is a good idea. There is the lack of the Lugano Convention being signed. The UK admitted that is important to many of our financial contracts. Those are all adjacencies to the ecosystem that Miles and I represent.

Lord McNally: May I go back to the original question? I am not clear who is doing what during the six-month bridge. Mr Barnier is going back to French politics. Lord Frost has packed his bags. Who will use the bridging time to build permanent adequacy?

Nick Collier: Sorry, we should have answered that part of the question. There is a specific mechanism for finding adequacy. We are assured by both sides, particularly by DCMS on the UK side, that those negotiations are ongoing and, indeed, have been going quite well. It is disappointing that the EU side would not grant it by the end of the year. The UK, of course, has reciprocated unilaterally, which is good. The answer to your question is that there is a mechanism. Quite why they could not do it, I do not know. Presumably, that continues, but, rather like financial services equivalence, formally speaking it is outside the treaty.

The Chair: Thank you very much.

Q10 **Viscount Trenchard:** My question refers to the future. In the long term, how should the UK take a leadership role in developing common global standards in financial services? In answering that question, could I ask you to cover the following three considerations: first, the huge increase in fintech, cryptocurrencies and blockchain-based technologies, which are largely not regulated; secondly, the clash between the EU-style very codified regulatory framework and the US and the Anglosphere—or Anglosphere except UK—common-law, principles-based type of regulation, which Lord Thomas mentioned and Miles referred to; and, thirdly, the tension between having common global standards and regulatory autonomy?

The Chair: All that in three minutes.

Miles Celic: I will speak very quickly. It is a really important question and I will try to do justice to it in the time remaining. First, the UK, I think, has a completely outsized voice compared to the size of our population, and in many ways to the size of our economy, in financial regulation globally. That is reflective of us being, as I said earlier, the host of one of the two major international financial centres.

The point has been made that the future direction of global regulatory standards will be set by a premier league, for lack of a better term, of international financial centres. That will be the US, China, almost certainly the EU, and over time quite possibly India as well. There is a debate about whether the UK is actually in that premier league. Even those who say that it is not would accept that, if it is not, it is just outside, and in a unique position, just below that large group. The UK could well be the swing voter in issues that are debated. As issues of international standards and international regulation develop, the side the UK backs is more likely to be the side that wins the particular debate.

In the interests of time I will not go into the substantial risks of fragmentation and quite what that may mean. Centres that are much more internationally minded, such as the UK and the United States, are much more exposed, therefore, to the risks of regulatory fragmentation. It is very much in the interests of our industry, and I would argue our country, that we maintain an international approach globally as much as possible and avoid that kind of fragmentation. It is absolute anathema to

the way we do business either as a country or as an industry and would be hugely detrimental.

We need to use the regulatory diplomacy we have to make the case for open markets and free trade, and for growing the liberalisation of trade and services. I think the UK has a particularly strong position to play on that, both in the strength of our diplomatic engagement and in the respect with which British regulators are held globally, as Nick touched on, and the forums and leadership positions that British regulators and the Bank of England have in a lot of those areas. We would argue that it would be hugely in the national interest for government to put additional resource behind that effort, to focus it on working with industry and regulators.

On the three specific points that you raised, Viscount Trenchard, fintech is one of the areas with a body of existing equivalence, as I talked about earlier. Looking to the future, as you say, the regulation in that area is less well developed. The UK has stolen a march, to a real degree, on other parts of the world through the FCA regulatory sandbox, for instance. We have the fintech review, which recently reported. The Government are very committed to it. I would argue that there are three major fintech centres globally: the US, China and the UK. The UK is much more export minded because our home market now is smaller than the Chinese or the Americans tend to have. Fintech is an area where the UK can absolutely take a leadership role.

Some of that will be relevant to international standards. A lot of it will be relevant to domestic standards. Even there, it is notable that the sandbox has been copied by many other regulators globally, and they are improving on it. A risk of first-mover advantage is that you may move first, but you are the first to run into obstacles and difficulties, and others learn from your experience in getting over them. We need to continue to innovate and to drive that, and continue to attract people.

We have touched on mobility in this discussion. It is also about making sure that we continue to attract entrepreneurs globally. In Silicon Valley, 40% of the fintechs were started by people born outside the United States, and 44% of the staff were born outside the United States. It is a global, very finite and very limited talent pool. We need to be able to attract that.

On codification, you are absolutely right, and we have touched on this in the discussion; there is a common-law empiricist approach versus a more codified approach, certainly between the US for instance, as you raised, and the EU. They take a very different approach. I do not think that will change. I am not necessarily convinced that the practicalities are always insurmountable, although, as we have touched on, in areas such as data, they raise particular and specific challenges.

From where the UK is, there is a lot to be said for the speech that Sam Woods made on stylish regulation. We need to make sure that we have a nimble approach. The economic attaché at one of the big British

embassies in the EU put it to me, over a year ago, that the difference between the UK and the EU once we were out of the European Union would be that the European Union will be an 18-tonne truck storming down the motorway. It will have mass and scale and power, but it will not be very manoeuvrable, and what the UK needs to be is an Aston Martin. It is obviously a lot smaller, but it is nimbler and manoeuvrable and flexible. As a summary, that is not bad. As ever with a summary or an analogy, it is not perfect, but it is a reasonable approximation of what we should be aiming for when it comes to regulation in this space.

On the tension in global standards, there may well be friction over the years on global standards versus regulatory authorities, but our view is that when it comes to our industry, much of it, particularly in banking—insurance is slightly different—needs to be done at international level. The louder and more persuasive and authoritative a voice the UK can have in those international forums, the better, and the more advantageous. I am conscious that I have taken too much time.

The Chair: Nick, do you have anything to add?

Nick Collier: I have two small points. We have another IRSG paper on global regulation that we can share with you, which will go into a bit more detail. A second point is that the UK is tremendously influential, and of course this year in particular, by chairing the G7 and co-chairing COP 26, there is a tremendous opportunity to show leadership.

A final point is that not only can we encourage global co-ordination, and in particular a focus on deference, if you like, as a way of solving that tension, but there is also scope for bilateral deals. The FCA has done terrific work bilaterally on fintech bridges and sandbox co-operation. The Treasury is working with the Swiss, for example, on a whole range of areas in financial services, essentially working towards mutual recognition. I think we can do both.

The Chair: Thank you very much. We are in danger of running over a bit, but I wonder if you would both mind answering a couple of supplementary questions. Lord Vaux and Lord McNally, you have two minutes each to ask your question.

Q11 **Lord Vaux of Harrowden:** You may have seen the article in this morning's *FT* about the decision by the Polish group InPost to pick Amsterdam for its listing. The *FT* suggests that this is the "latest sign that London risks losing its grip as a trading hub after Brexit". Do you want to comment on that?

Miles Celic: I have not seen the piece, so I cannot comment on the individual case. In broad terms, one thing we have always said, and we have always been really clear about, is that London, and the UK generally, is a closely integrated hub. It is always worth bearing in mind that two-thirds of the jobs in the industry are outside the M25 and half the exports come from outside the M25. Edinburgh is a terrific centre for asset management, for instance, and so on.

Looking at the UK as a whole, we have never taken the view that we have some God-given right to long-term success. There are plenty of examples historically of centres such as Florence or Venice that were the dominant financial centre of their time, and declined because they got the politics or the economics wrong. The aim has to be that the UK continues to be attractive and continues to be competitive. We very much welcomed the Chancellor's announcement that Lord Hill has been tasked with running a listings review. That is enormously welcome. As I said earlier, the announcements that the Chancellor made on 9 November on the various reviews and consultations have to be part of keeping the UK attractive.

It is broader than just regulation. We need an attractive tax system. It is not just about the tax rate. It is about predictability, simplicity and streamlining. According to the OECD, we have a pretty average tax regime, compared to others. It is also about attracting talent. There will need to be an aim and a focus on continuing to keep the UK competitive, and a place where companies want to come and list.

Nick Collier: The way I tend to describe it in the EU is that London is an international securities centre rather than a domestic securities centre for European purposes, so liquidity in European stocks, particularly in smaller companies, will probably be local. London is complementary to that. You would not expect all European companies to list in London, but if you want to tap the international pool of capital to which London has better access, you would come here.

I think the *FT* article noted a couple of listings in Amsterdam compared with a couple of dozen listings in London. That is the answer. You are not trying to take the domestic European euro activity business away; you are trying to complement it. To some extent, the same goes for investors—Miles's point. European investors can access international capital markets more easily through London. For the sake of argument, European asset managers might have their European equity teams in whatever capital it is, but their international equity teams, their international debt teams and their international alternative teams are based in London, or potentially New York, or Singapore, but probably not in the EU capital.

The Chair: Thank you very much.

Q12 **Lord McNally:** There are those who see Brexit as an opportunity for buccaneers. The problem with buccaneers is that they do not really follow the laws. While Miles is loosening his screws and Nick is re-regulating for the 21st century, I hope we do not open the door to London becoming a centre for less than admirable financial activity.

Miles Celic: I completely endorse what I think is behind your question, and I think Nick has already talked about this: London is a premium centre. The UK is a premium centre. The way that financial services and broader professional services are developing is that you do not win through a race to the bottom. London is, and needs to remain, a kitemark

of quality such that you can say, "I can do business in London and that means I can do business anywhere". It is one of the reasons why I get very frustrated about the Singapore-on-Thames approach, partly because Singapore is a very high standard centre. It is a very competitive centre, but it is a very high standard centre. Anyone who has done business in Singapore, as I have, will tell you that the regulators there are absolutely top-notch, as they are in London, as they are in New York, and that is why they are successful.

The idea that we can deregulate our way to success, or cut corners on our way to success, has very little support in the industry, and practically no support in the mainstream industry. We need extremely high standards. We need to be competitive and attractive. What I think we need to avoid, however, is gold-plating regulation. That has been a problem for a long time. I have to say in all candour that there has been a tendency in the UK media and in UK politics to blame Brussels for gold-plating that often happened in the UK. If there is one benefit from Brexit that is absolutely unarguable, it is that it will now be very difficult to blame Brussels for decisions that are taken in the UK.

Nick Collier: I have nothing to add.

The Chair: We usually rely on Lord McNally to ask a slightly mischievous question, but I think it got more out than we expected. Thank you.

It has been fascinating. We are very grateful to you for coming along. One of our regular and very active Members, Baroness Couttie, is having particular broadband problems today. She has been going in and out of the session. She must find it very frustrating. We are very sorry that she has had that experience.

To conclude, I thank Miles Celic, the chief executive officer of TheCityUK, and Nick Collier, managing director, City of London Corporation. Thank you very much indeed for coming along. We could have had a whole other session on some of the topics. We will certainly be chasing you for some of the documents that you offered. Thank you for your time. The public session has ended and the committee will now resume its private session.