

# Treasury Committee

Oral evidence: [The Financial Conduct Authority's regulation of London Capital & Finance plc, HC 1191](#)

Wednesday 21 April 2021

Ordered by the House of Commons to be published on 21 April 2021.

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Members present: Mel Stride (Chair); Rushanara Ali; Mr Steve Baker; Harriett Baldwin; Anthony Browne; Felicity Buchan; Dame Angela Eagle; Emma Hardy; Julie Marson; Siobhain McDonagh; Alison Thewliss.

Questions 320 - 400

## Witnesses

I: John Glen MP, Economic Secretary to the Treasury, HM Treasury; Katharine Braddick, Director-General for Financial Services, HM Treasury.



## Examination of witnesses

Witnesses: John Glen MP and Katharine Braddick.

Q320 **Chair:** Good afternoon and welcome to the Treasury Select Committee inquiry session into the FCA's regulation of London Capital & Finance. I am delighted to be joined by two witnesses this afternoon, and I am going to ask them to very briefly introduce themselves to the Committee.

**John Glen:** Good afternoon. I am John Glen, the Economic Secretary to the Treasury, and I am very keen to give evidence to this very important inquiry.

**Katharine Braddick:** Good afternoon. I am Katherine Braddick, and I am the director-general for financial services at the Treasury.

Q321 **Chair:** Thank you for joining us. John, we have had a pretty sobering report from Dame Elizabeth Gloster, citing a number of very serious failings by the FCA around LCF. In that report, she names three individuals in terms of having responsibility in the areas in which these failings occurred—not culpability, but nonetheless responsibility.

Andrew Bailey has gone off to be a very good Governor, this Committee would say, of the Bank of England. Jonathan Davidson is still at the FCA but will be leaving in the not-too-distant future. Megan Butler has been given a very important and very responsible role in terms of managing the transition, and some wonder whether this is appropriate given the failings in the areas for which she did have responsibility.

At any point, did you consult with or were you approached by senior individuals at the FCA to discuss that particular appointment and how it was handled in regards to Megan Butler?

**John Glen:** I will come to address your question directly, but may I first thank Dame Elizabeth Gloster for the superb work she did with this forensic report? It is a very thorough analysis of what went wrong, and the recommendations are very welcome. We have embraced them, as the FCA has. I also want to apologise to the 11,625 LCF bondholders who have endured significant uncertainty.

Coming to your specific question, as the Minister, under the FSMA 2000 legislation, the responsibility of the Treasury is to appoint the chair of the board and the chief executive, and to get approval from the board members, but not to be involved in the operational decisions, and that means the hiring and firing of executives at the FCA. I am very familiar with what Dame Elizabeth Gloster says in terms of responsibility and the individuals she names, but those are operational matters that the board and the chair of the board, Charles Randell—who I believe gave evidence to you on 1 March—are responsible for.

These are delicate matters that arouse strong views, given what happened, but they are operational matters for the chief executive and



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the board to be accountable for, as they have been through this Committee's inquiry process.

**Q322 Chair:** To clarify, I am not asking a question specifically as to whether you have responsibility for intervening or overseeing the appointments at Megan's level. I am just really asking the question: when it came to these important changes right at the top of the FCA, particularly where Megan's role involves the transformation programme, which is a very big and important programme there, surely you must have discussed these moves and what was going to be done with Charles and Nikhil.

**John Glen:** I have regular meetings with the chief executive; my last meeting with the current chief executive was on 17 March. I had frequent meetings with the previous chief executive, and I meet with the chair as well. Given the responsibilities that I have, we discuss the transformation programme, which I am sure we will come on to discuss later, but I have no role in those appointments. Therefore, I do not offer a running commentary on those appointments.

I note that Nikhil has made some significant new appointments—four new appointments—very recently, and indeed a new ESG appointment in the last few days. I keep abreast of what is going on but, given the limits of my responsibilities, these are matters for the board and the chair of the board, ultimately.

**Q323 Chair:** I accept and understand that. I am more getting at this: would you not have had some discussions, at least, with Charles and/or Nikhil around these very big and important changes right at the top of the organisation? Would you have expressed any views during those discussions as to whether it was appropriate that Megan, given the history of what has happened here, would move into this new, important and very senior role at the FCA?

**John Glen:** I discuss what is going on at the FCA with the chief executive and the chairman of the board on a regular basis but, ultimately, it is not for me to be the arbiter of whom they employ in what roles.

I am familiar with Nikhil's observations, which you went into in some depth when he came before the Committee, about the need to combine new expertise, which is brought in from a number of private sector organisations, particularly in the area of data. He also took the view that the retention of Megan Butler, who still commands significant respect in the organisation, was necessary in order to carry what is a significant organisation with 4,188 employees, including the PSR and contractors as per the last annual report, through this challenging and urgent transformation programme that he is leading.

**Q324 Chair:** Are you comfortable, and were you comfortable in those discussions to the extent that they were held, about the fact that the recruitment process for that post was purely internal rather than having any external element? It seemed to involve two individuals only, of whom



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Megan was one. Much of the rationale for having recruited Megan into that position appears to be that not to have done so might, according to Charles Randell in his evidence to this Committee, have led to a six to 12-month delay in the work around the transformation process. Were you comfortable with all those elements of the recruitment process?

**John Glen:** The report is very clear about the need for the FCA to urgently address the situation and the conditions that led to the mistakes that resulted in this failure. Nikhil, the chief executive, would have to make a judgment: a trade-off between how open and how long that process of recruitment would take versus establishing momentum around the solution. I recognise that dilemma and he is accountable for the decisions he made. My understanding was that Jonathan Davidson has now left the organisation and Megan has taken on this role.

Q325 **Chair:** Are you confident in the way that Charles Randell, for example, as chair of the board, handled that recruitment in the way that I have described, and that he had the appropriate grip on what was happening and took the right decisions? Are you comfortable where you sit?

**John Glen:** I came into office in January 2018. Charles had already been appointed. He is the chair of the board. He is responsible for calling the executive to account for what they are doing and for overseeing that process. He would have had to weigh up a number of factors in terms of continuity, addressing the challenges and dealing with the responsibilities that were found to exist within Dame Elizabeth's excellent report. That is a matter of judgment that he had to make. It is not something that I am responsible for. You will have asked him questions about his judgment on those matters.

Q326 **Chair:** All that is true and I agree with all of it, but that is not quite what my question was. Are you confident that Charles handled that situation and made the right judgment calls in respect of the changes that occurred at that time? Are you confident that he was doing the right thing, had a grip on the situation and took the right judgment calls?

**John Glen:** The organisation is well set to deal with the challenges highlighted by Dame Elizabeth Gloster. I am looking very carefully at regular updates and I welcome Charles Randell's letter that was sent to the Committee yesterday of 16 April, updating us on that transformation programme. With respect to the application of the lessons around individual responsibility and who should do what roles going forward in this transformation programme, that is an operational matter that Charles is responsible for overseeing. It will be for the Committee to determine, on his evidence, whether that judgment was right.

Q327 **Chair:** I am asking you what your view is on that matter.

**John Glen:** My view is that he is responsible for it. As he is responsible for it, that is a matter for him to do the work around it with his board. There were some very fine judgments to be made around continuity in order to deliver the transformation that is urgently required, while taking



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account of the responsibility of the individuals who were named in that report, one of whom is no longer in the organisation.

Q328 **Chair:** What I am not hearing you say—in answer to the question I have put a few times now—is, “Yes, I have absolute confidence that Charles Randell took the right decisions in those circumstances”.

**John Glen:** In operational matters, the board and the chair will make decisions. I will not be able to see all the factors that led to those decisions, and I am certainly not an actor in making those decisions. It is an independent regulator, it raises a significant £590 million levy and it employs over 4,000 people. It would be inappropriate for me to be offering a running commentary on appointments of individuals to different roles in the context of significant organisational change and a new chief executive. Forgive me, but I refrain from making a final judgment because I do not have all the factors and I am not running the organisation myself.

Q329 **Chair:** If you were asked the question, “Do you have confidence in the Governor of the Bank of England?”, I think you would just give us a quick yes, would you not? Here, when this question has been put to you a few times, you do not seem to have concluded that yes is the answer.

**John Glen:** Charles is the chairman of the board. He has made the decisions he has made. There was a very fine judgment to be made. He would have had to weigh up the risks of a lack of continuity, and he has made those judgments.

Q330 **Chair:** I would take that as not being prepared to say yes to the question, “Do you have confidence that he took the right decisions at that time and in his judgment at that time?”

**John Glen:** I have said what I have said.

Q331 **Chair:** Can I wrap it up like this? There will be a lot of people out there, many of whom have lost a lot of money. I appreciate the comments you made, quite genuinely, at the beginning of this session and we take those entirely at face value.

Nonetheless, they will be feeling very sore about this situation and many of them will say, “Whenever there is a major crisis in one of these kinds of organisations, there is an inquiry and the inquiry unearths all these problems and the people who were responsible for things, et cetera. But, in the end, nothing really happens to those who are in a position of responsibility within those organisations. They get moved around a bit, et cetera”. They will say that, ultimately, the buck does not stop anywhere. What do you say to those people who feel that?

**John Glen:** When I directed the FCA to set up this inquiry, using the section 77 powers of FSMA 2000, we did not put personal culpability in the scope, because we wanted to get to the heart of where that regulatory failure was as quickly as possible, so that we could get to the point that we were at this week with the written ministerial statement



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delivering a compensation scheme to deal with the failure of the regulation.

My responsibility was to examine that, to get to the heart of whether the compensation was suitable and then to make that happen. I am acutely aware of that challenge around who was personally responsible. In order to do that, the nature of the inquiry would have been significantly different. It would have involved even more scrutiny of who did or did not receive the anonymous letter and the 15 telephone calls, et cetera, during that period of 2017-19.

I thought it was more important that we got to the heart of that failure and actually did something about it. The organisation and the chair will have made a decision about what to do about individuals who were responsible, but that is not a matter that I have authority over.

**Q332 Chair:** I want to turn briefly now to the compensation and the announcement you made in the written ministerial statement, which will be of some relief to many but probably not to all. Do you want to start by explaining the exceptionality of these circumstances? As you say in the statement, the Treasury is not going to put itself in a position where it is standing behind every loss that an investor makes; that would not be right. Can you talk about why LCF was an exception?

**John Glen:** There are three broad reasons. The first is the business model of LCF and the scale and structure of what was going on. There are also issues around LCF being the only failed minibonds for which the FCA authorisation failed where on-lending was involved, so people were essentially buying a financial instrument and product where the underlying assets were lent on through another entity. The third factor I had to weigh up was the halo effect of a firm being authorised but conducting unregulated activity.

We looked at the 30 minibond firms that have failed over the last six to seven years, and we looked at the range of issues involved. Given the authority and depth of Dame Elizabeth Gloster's report, we concluded—I concluded—that this compensation scheme is appropriate. I then had to weigh up the nature of the obligation and weigh up the obligation to the taxpayer. We have come up with a scheme that gives people 80% of their losses, up to the £85,000 of the FSCS compensation limit. That will mean that 97% will get 80% of their original investment back. That is the context and description of what I have agreed.

**Q333 Chair:** Why was the £68,000 cap chosen, out of interest?

**John Glen:** The 80% of the £85,000 is what it represents. That reflects the fact that we cannot have a situation where the Government are perceived to sit behind risky investments, particularly those that are unregulated activities. That gets the right balance between recognising the words of Dame Elizabeth Gloster in chapter 2, paragraph 1.1 on page 31, where she recognises the failure of the FCA to discharge its functions



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in respect of LCF in a manner that enabled it to fulfil those statutory objectives, and the principle that the Government will not be able to insure against all risk. That was the judgment I made around the appropriate balance of factors and that is why it is not a higher percentage or a lower percentage.

**Q334 Chair:** We might have discovered that you have a photographic memory, by the sounds of it.

I am going to move on now because I am running out of time but, to summarise, you are saying that some of the risk that was involved here, no matter what has happened, needs to be shared between the taxpayer and the investor who has lost out. Hence you are not, for example, taking the full £85,000 that would be coincident with the upper limit of the FSCS compensation, but you are taking that figure of 80% of £85,000, making your £68,000 limit.

**John Glen:** The FSCS was £85,000, consequential of advice being given, which was a regulated activity and hence it was higher. I put in the haircut to reflect the factors that you have repeated back to me.

**Q335 Chair:** Whatever anybody else may feel about that, it does at least signal that the Government have stepped in, in a fairly significant way. No doubt there will be some criticism of what you come forward with, as there always will be, but there will be some relief to many of these investors who have suffered loss at least.

**John Glen:** I hope so.

**Q336 Harriett Baldwin:** I want to move on to the subject of ISAs because, in her excellent and comprehensive report, Dame Elizabeth highlights the fact that there was a gap in the allocation of ISA-related responsibilities between the FCA and HMRC. The fact that many people invested on the basis that they were ISA-approved gave people that reassurance and people increased their investments as a result of that. What is your sense in terms of why the gap existed in the first place?

**John Glen:** This is one of the four recommendations that we accepted from Dame Elizabeth's report pertaining to the Treasury. This lacuna in the regulation of ISAs and where the responsibility falls between HMRC, the FCA and the Treasury is a really important area.

There was widespread misunderstanding, in that an ISA, being an annual £20,000 allowance—essentially a tax wrapper—conveyed different things to different people. For some people, it meant that the Government stood behind it, and that is not what it means. What it means is that it is free from tax, and the interest and accruals from that are free from tax.

We have set up an ISA steering group and we have a number of streams of work there. Working with the Money and Pensions Service, we are looking at how on GOV.UK we explain what an ISA is and how we provide clarity about what it does and does not do. That is really important. There



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is some other work that we have done, which I can talk about as well if you like, about what HMRC is now going to undertake in terms of the way that it regulates and reviews ISA providers.

**Q337 Harriett Baldwin:** I wanted to come on to that because, in his letter, Charles Randell talks about this working group that has been set up and the fact that it has, so far, found 30 other ISA providers that have been effectively struck off the list. I just wondered how the working group is going to work, how often it is going to meet and whether those 30 names are going to be in the public domain.

**John Glen:** All that is referring to is that, in the list of firms that was published on 6 April at the start of the new tax year, there were 30 firms whose names were taken off it. How HMRC is going to present that and the way that it regulates and reviews that is a matter that HMRC will be responsible for, and it is for HMRC to communicate in terms of how it does that.

Across different areas of Government, we do not publish exactly the volumes of that work but my understanding is that they are going to significantly increase their scrutiny of ISA managers compared to previous years, and that work will begin when they have recruited the staff in September, in five months' time.

**Q338 Harriett Baldwin:** You are explicitly accepting that recommendation, accepting that the Treasury's role is to spot these types of gaps and, with the new working group, ensure that you have taken on that responsibility. In its response to the investigation, HMRC suggested it would not be appropriate to impose this responsibility on HMRC. You are now accepting that the responsibility does lie with the Treasury, effectively.

**John Glen:** There is a distinction between the responsibility for overseeing, at a working level, the compliance with HMRC rules in terms of the ISA managers—which is HMRC's responsibility and that is the work that will begin in earnest in September or will be extended—and the work I referred to in the earlier part of my answer around clarifying what ISAs are and are not, which is a Treasury responsibility.

We have to work with trade bodies and the Money and Pensions Service to improve that understanding. We will work collaboratively between HMRC, FCA and the Treasury to get these things right and respond in full to recommendation 10 that Dame Elizabeth made.

**Q339 Harriett Baldwin:** Specifically with regard to innovative finance ISAs, in terms of your written ministerial statement in December that said that you are urgently looking at the sufficiency of checks on the innovative finance ISA managers and the penalties regime, can you update us on what you found to date and what changes have been implemented as a result of that?



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**John Glen:** That is again something that HMRC is responsible for looking at. My understanding is that there is a programme of work going on to look at that and improve the scrutiny of those who are doing that work.

Q340 **Harriett Baldwin:** Will it be the same working group that looks at both of these?

**John Glen:** Yes, that is my understanding.

Q341 **Harriett Baldwin:** The working group, in terms of interim measures, has found these 30 organisations that have been taken off the list. Are there any other changes that are likely to be put in place to manage the other FCA-authorized firms that offer these innovative finance ISAs?

**John Glen:** There was a meeting of the technical expert working group last week, on 15 April. HMRC will update on the work that it is doing from September in terms of increased audit work to address what Dame Elizabeth cited, which was that those ISA managers and that penalty regime is fit for purpose. We accept the need to have that ISA intelligence working group continue to look at all aspects that Dame Elizabeth came out with.

Q342 **Harriett Baldwin:** In terms of how you will communicate that with the wider public who are making the investment decisions about where it is safe to put their ISA, where can the general public find that information?

**John Glen:** The Money and Pensions Service is the main mechanism by which we can clarify this, but there will be some work done to look at how we can effectively improve the communication around what an ISA is and is not. That is work that the working group will look at and that we in the Treasury will take forward as soon as we can.

Q343 **Harriett Baldwin:** What about for innovative finance ISAs?

**John Glen:** The same principle applies. We have to bring some clarity around what these ISAs do and do not do, what the risks are, what the responsibility of the individual taking them out is and what role the Government play in that.

**Katharine Braddick:** We are also talking to the trade associations that represent ISA managers to understand how they can better inform consumers about the protections. As the Minister was explaining, there is a distinction between HMRC's role in ensuring that the tax rules are being delivered by ISA managers and FCA's role in ensuring that authorised ISA managers are following all the right conduct rules.

For IF ISAs, they have already tightened up the requirements, for example, around peer-to-peer lending, so that is also kept under constant review by the FCA. In this case, these products should not have been in an ISA wrapper to start with as they are not eligible, so it is a little bit adjacent, but I just wanted to round out that picture if it is helpful for the Committee.



Q344 **Alison Thewliss:** I have some questions around non-transferrable securities. Dame Elizabeth highlighted two methods by which the Treasury can extend the current regulatory framework to cover non-transferrable securities such as LCF bonds as it relates to article 4 of MiFID II and section 85 of FSMA. Do you agree with these methods?

**John Glen:** We have launched a consultation on 19 April this week to look at the future of minibonds, aka non-transferrable debt securities. Last year, we announced that they would not be available to retail investors. Now we have to examine what we do about these minibonds. There is a distinction in the types of minibonds. You have minibonds that, say, Hotel Chocolat and BrewDog would issue as part of everyday financing. Those would be appropriate and understood to be part of everyday financing.

The distinction here is between that sort of minibond and one that involves on-lending. What you saw with LCF was people putting money into a bond and that money being lent on to a third party where there was no oversight of what was actually going on there.

We hope that, by the autumn, we will bring forward our plans in terms of what we would seek to do to legislate in this space. That will be based on the consultation that we launched on Monday.

Q345 **Alison Thewliss:** Do you take a view at the moment over whether article 4 of MiFID II or section 85 of FSMA would be useful in this respect?

**John Glen:** That is the purpose of the consultation. I want to make sure that we are really clear about the distinction between those two categories of minibonds, and look at the policy options for the regulation. We will build on the sensible observations of Dame Elizabeth and come out with something as quickly as we can. As I say, I hope that will be in the autumn.

Q346 **Alison Thewliss:** Can you tell me a wee bit more about the expected outputs of the consultation that you announced?

**John Glen:** We will consult, probably over six or eight weeks—I am not absolutely sure—and see what that provokes. We will then process those responses, and look at the applicability of existing legislation and how we would restrict or continue to allow these to exist, under what conditions. It really depends on how that consultation works out and what responses we get.

We have to have some real clarity over minibonds where they can function as part of an everyday financing instrument and option versus something that seems pretty problematic, in terms of giving people a false impression of the accessibility of that investment when there is no control over where it has ended up.

It is important to note as well that what we saw here was fraudulent activity. The Serious Fraud Office has an ongoing inquiry into matters



related to this, and individuals are being apprehended for their behaviour. We should make sure that we bring some clarity in this regard.

**Q347 Alison Thewliss:** Do you think that the UK's exit from the EU will have any particular impact on the changes you are able to make in the legislation? You will remember all the copy-and-paste sessions we had of moving regulations over. Are you looking to diverge from what was brought over into UK law?

**John Glen:** I remember those sessions all too well—we had nearly 60 in the Committee Rooms. That was to provide an on-shoring mechanism. We will do what is right for the market as it exists in the UK. We prize high-quality regulation in the UK and we are not trying to create a deregulated environment. We are trying to find something that is appropriate.

Dame Elizabeth's report has thrown into focus the good and the bad in respect of minibonds. We have to clarify where they can endure as a meaningful and sensible part of financing, and where it needs to be clarified that they cannot be part of that.

**Katharine Braddick:** As far as I am aware, there are no divergence issues around either of the options that Dame Elizabeth proposed because neither of them is subject to an equivalence decision by the European Union. I will double-check that and communicate with the Committee if that is not the case but, as I am aware, there is not an equivalence or divergence question in this case.

**Q348 Alison Thewliss:** From my understanding of reading the extract from the chapter, the prospectus requirement only applies to transferable securities but, after Brexit, the UK could extend this requirement to non-transferable securities. I suppose there is an option there that is open to you.

**Katharine Braddick:** That is absolutely right. The prospectus directive was EU law, which we can now amend ourselves. You are absolutely right in that regard. Sorry, I heard a different question about equivalence where the prospectus directive does not apply. If it is helpful, I can write to clarify.

**Alison Thewliss:** That would be useful.

**John Glen:** The bottom line is that we will respond to what the consultation gives us and we will be free to do what works in response to this regulatory failure in the UK.

**Q349 Alison Thewliss:** I was going to ask about the scope of the consultation. What is your expectation about how widely people will be coming in to respond to that, and whom are you looking for to respond to it?

**John Glen:** We do not inhibit the distribution list of the people that can respond, so anyone is able to do that. It feels like we have put out a



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dozen over the last few months in various areas. On the future regulatory framework, we had 120 responses.

We want a diverse and full range of responses from relevant parties that we can weigh up to give us a full picture of the options and the right way forward, so that we can have credibility in the market and do something that is appropriate, but which does not unrealistically and unnecessarily restrict the use of minibonds in an appropriate format in some instances.

**Q350 Emma Hardy:** In a letter to the Committee dated 24 June 2019, you set out details on two strands of work that the Treasury's review of the regulation of non-transferrable debt securities would cover. You noted that the work would complete in early 2020, which of course is pre-pandemic. However, you appear to have only announced a consultation two days ago, which is obviously helpful a couple of days ahead of a Committee meeting and scrutiny session. What was the reason for the delay?

**John Glen:** One of the challenges was related to the chronology of timings around Dame Elizabeth's report and the fact that we wanted her to complete that report. That report was unfortunately delayed, through no fault of her own or the FCA's, and Dame Elizabeth is at pains to make that clear in her report. There was considerable value in us responding to her conclusions. She reported in the middle of November and we responded in December. There were a number of other legal processes underway. Those were resolved at the end of March, and that is why we have moved forward to where we are now.

This is complex, but we can now align the outcome of the report with this piece of work and hopefully get to the right conclusions. The amount of work that we were doing last year with respect to ad hoc schemes and various interventions—Katharine's team has done a fantastic job across financial services in the Treasury over the last 13 months—has probably inhibited progress a little bit as well.

**Q351 Emma Hardy:** At the beginning of this session, the Chair quite rightly pointed out the human cost and difficulties that people have faced. What harm do you think has been caused by the delay?

**John Glen:** Are we talking about a delay to the consultation on—

**Emma Hardy:** A delay to your review, yes.

**John Glen:** Do you mean the delay to the non-transferable debt securities review or to the compensation?

**Emma Hardy:** I would be keen if you could answer both, please, Minister.

**John Glen:** If we look at the delay with respect to the compensation scheme, we directed the FCA to undertake this work on 1 April 2019. Dame Elizabeth was appointed and started work in July. I met with her in the first couple of weeks in July 2019. We had hoped she would do it in



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12 months but, because of the access to data at the FCA, she told us that that would need to be delayed into the autumn.

That report then came forward and we had about a month to look at it. I did the written ministerial statement on 17 December. Then, due to uncertainty around the outcome of the legal challenge to the jurisdiction of the FSCS compensation scheme, which was only resolved on 29 March, although I could do some work in the background with officials on the design of the scheme, I could not bring that forward because that was material to the scope of who would be included. I was then in recess and then we had the national mourning last week, so I brought the announcement forward on Monday.

If I link that back to what happened with the Barlow Clowes scheme in 1988, which waited a year after maladministration was found, or the Equitable Life scheme that was announced two years after that was found, I think this is reasonable. It can never be quick enough. I take it very seriously. We have a significant number of people who have faced harm, and I am pleased to be able to bring this scheme forward now. Is it perfect and was it as quick as I would have liked? No, but I have done my best in the circumstances, and I hope that timeline is helpful.

**Q352 Emma Hardy:** There does seem to be a really unlucky set of circumstances behind this delay. What confidence can people have that you will complete in autumn, as you just mentioned to the previous Committee member?

**John Glen:** The autumn reference was to the work around the non-transferrable debt securities—the minibond review. With respect to the pay-out to the compensation that I announced in the written ministerial statement on Monday, we will need a legislative vehicle to do that in the next session. We are working very hard to look at that and see when that can be done. Then we would expect to begin the pay-out six months after Royal Assent is granted. We will make further announcements as soon as possible.

**Q353 Emma Hardy:** I just want to push you on that final comment because there will be people listening to this who have been harmed and who are keen to see some form of justice. You have mentioned six months after Royal Assent but when is your prediction of Royal Assent? How far into the future are we looking at here?

**John Glen:** I cannot be specific about that. I can defer to Katharine, who will be leading the team here in the Treasury, if she can say any more. It will depend on when the legislation comes through. We will do that as quickly as we can in the new session, and, when we gain Royal Assent, it will be within six months after that. Everyone will want to know what is happening within six months, but it is going to be pretty difficult to say more than that.



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We will absolutely do it as quickly as we can. We will keep people, the Committee and the general public very aware of progress as we move forward. We have kept the scheme as clear and as simple as possible. All those who have not received money from the FSCS will be eligible up to 80% of the £85,000 limit, which means that 97% of people will get 80% of what they invested.

**Katharine Braddick:** The Minister is quite right that the main variable here is the legislation, both in terms of when we are able to get a vehicle and then how swiftly the legislation makes its way through Parliament, which is not within our control; that is a matter for Parliament and parliamentarians. As the Minister said, it is a scheme whose simplicity really helps with speed. It has been set up so that people do not need to use claim management companies or solicitors; they can engage directly to get their compensation, so that should really aid swift pay-out. As the Minister said, we recognise that it is never quick enough, so you always have to be as quick as you can in this situation.

**Emma Hardy:** I look forward to receiving a progress update in our next session.

Q354 **Anthony Browne:** Hello, John and Katharine. My questions are about an issue that I know is one of almost constant concern to FCA chief executives. Recommendation 12 of the Dame Elizabeth Gloster report is that the Treasury should consider the optimal scope of the FCA's remit. The thinking in the report was that the FCA was rather overstretched, and that was part of the reason why it could not focus properly on LCF issue.

You will know that in 2014 the FCA took over control of consumer credit from the OFT and 50,000 companies came in. Andrew Bailey, former chief executive of the FCA, said that that rather broke the supervision model they had. They have also had claims management companies, pay-day lenders—I remember them coming in—AML self-regulatory bodies and payments under the PSR. You are considering funeral plans. Crypto-cash might come in. Buy-now-pay-later might come in. What are you doing to consider recommendation 12 on the optimal scope of the FCA remit? When will you do that and how will you do that?

**John Glen:** You have quickly gone through a large number of factors there.

**Anthony Browne:** It keeps growing. It is like knotweed, but that is generally the sign of a successful regulator.

**John Glen:** I make no apologies for the extension of the responsibilities that we ask of the FCA. We live in a very sophisticated financial services economy in the UK. The FCA works very hard. There are lots of very good and very talented people who work at the FCA, and we are very grateful for the work it does as an independent regulator.



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When parliamentarians and all-party parliamentary groups bring issues to me, I look very carefully at them. When we think about buy-now-pay-later, which is an evolution in the provision of financial services and a new credit product, it is right that we ask the FCA to regulate. The same is true with funeral plans. Obviously, we are going through a significant period of change in terms of digital assets, blockchain, crypto-assets and so on. It is important that we get that right and that the FCA has the responsibility to do that.

It is also important to accept the context of the transformation work that is going on here. When Andrew Bailey took over as the chief executive in July 2016, he recognised the significant challenges as from the legacy that you referred to, with respect to the move of consumer credit responsibilities from the Office of Fair Trading into the FCA.

The big challenge that has been discussed in the sessions you have had with the current chief executive, the chair and others is that of dealing with data more efficiently and the empowerment of decision-making at a lower level. I want to see the progress of that transformation. It is happening rapidly, as we mentioned earlier. There are a number of new appointments that the chief executive has made, and he is making significant progress. I know he is very committed to accelerating that work. The remit is something that we will discuss in light of that transformation.

There is then a separate but related element to introduce into this answer about the perimeter, which is really important as well and often comes up. We have instituted an annual formal conversation about the perimeter. We had that on 19 January, and we reported the minutes of that on 25 February. We have to keep that under review. I do not sit here saying that that perimeter should not be changed. What I say is that we have to look at the reasons for it and what would be more effective if that perimeter moved.

I note, in the context of LCF, that Dame Elizabeth Gloster has said that the actual powers, reach and remit of the FCA were sufficient to deal with this but there was a failure to do what was needed.

**Q355 Anthony Browne:** You did say there that you would consider the optimal remit of the FCA once the transformation programme is completed or at least further down the line. Do you have any idea how you would judge the optimal remit of the FCA? It has been a process of evolution. As you pointed out, new issues come up that need regulating and you find a regulator for them to go to. On the other hand, there must be some metric you use to work out whether the FCA is overstretched or whether expanding it further will somehow lead to a lack of focus.

**John Glen:** I recognise, in general terms, that the FCA is very concerned. There is a tension all the time. It is always keen to be responsive to Government, but there is a tension in terms of the confidence in the operational capability to deliver an extended list of



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responsibilities. We have to have a constructive dialogue between us over how we frame that and set that going forward. It is very difficult to have a metric or a framework to measure it against, because we are talking about a dynamic industry with innovations in financial services delivery, which means that regulators have to adapt to it.

I think about the work that the Chancellor has referred to this week at FinTech Week: the need to have a scale box, building on the Ron Kalifa review, to look at how the FCA can enable new propositions to come to market more effectively. That means innovation at quite short notice. It will come from a deep dialogue with the FCA. We are open and keen to get that right and to bring clarity to what it does and does not do, and where responsibilities lie.

I am very alive to the challenge and very keen to support them as they deliver this significant transformation. Work was ongoing previously that has accelerated under the new chief executive, who has been in post for just over six months.

**Q356 Anthony Browne:** To push you on this point slightly, how would you know where the optimal remit is? I completely accept your point that it is a dynamic industry and new sectors crop up that need regulating, but there potentially comes a time when you realise that the FCA is overloaded: you have put your last bale of straw on the cart before it falls over, as it were. How can you assess that? You want to avoid the situation where there is some sort of collapse and crisis in the FCA and everyone says, "It is completely overloaded; do not give it any more". You want to realise you have reached the limit before that point.

**John Glen:** The bit to stress here is that there is an ongoing dialogue between the Treasury and the FCA. It is not like we say, "We are going to dump that on the FCA". There is a dialogue around the appropriateness and the calibration of that role. They will talk to us about the challenges that they see and we will think about how to do this in the optimal way. That is the way it works—it is not "them and us"; it is a collaboration. They are independent, which is why I stressed in my answer to the Chair the appropriate operational independence of the chair, the board and the executive, but there is a dynamic. Katharine and her senior colleagues, and others, will have a deep dialogue on those specific areas as we try to get it right.

In terms of the measurement of it, there is obviously an overall capacity issue, and the levy is something that they are responsible for. There are over 4,000 employees there, as well as the cross-contractors and the PSR. I recognise that that is a significant number of people, but we have to keep that dialogue open about effectiveness and finding ways of measuring that.

There is a risk-based approach. When you have 59,000 firms—and the FCA is also responsible for the fundamental prudential regulation for 49,000 of those 59,000 firms—that is a significant undertaking. That is



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part of the dialogue that exists between me, as a Minister, and the chief executive. We will keep that in focus as this transformation programme makes rapid progress, which I am confident it is doing.

**Q357 Anthony Browne:** A failure of a fund does not necessarily mean a failure of regulation. With 60,000 firms, there clearly will be a number of failures.

My last question picks up on a point you are raising there. The Treasury is the oversight body of the FCA; it is one of your bodies. How do you monitor the performance of the FCA? Are there metrics that you track it by? How do you work out whether it is doing the right thing in the right way efficiently?

**John Glen:** It is through deep dialogue and interface with officials and people at the FCA. I have a secondee from the FCA in my private office. I have had three during more than three years in this role. We keep very connected, and that helps me understand some of the challenges and issues that exist. There is very regular dialogue at all levels.

In terms of metrics, the nature of what they do is complex and risk-based, so the better access to data and interrogation of data, which is at the core of the transformation programme, will probably help provide better metrics.

As you rightly say, we will never be in a situation where we can remove all risks, and nor do we expect to be, in a dynamic environment where there is innovation, and long may that continue, in a jurisdiction and a country where financial services is a significant and valued part of our economy, which employs well over a million individuals, two-thirds of whom are outside London.

**Mr Baker:** Minister, I would like to return to an area where I know you have expertise. If I recall correctly, you are a former management consultant.

**John Glen:** Yes, for my sins.

**Q358 Mr Baker:** What sins? I cannot imagine that there are any. You have explained to us quite clearly that you are very connected to the FCA through your private office, and that is very reassuring to hear. What is your observation of the leadership structure of the FCA and its overall effectiveness?

**John Glen:** As I say, my role is to oversee the board appointments, the chairman's and the chief executive's appointments, and give advice to the Chancellor, who ultimately makes those decisions. That will need to evolve over time. We have recently seen a significant change in terms of the two supervision divisions that have been combined and merged with the policy and competition functions. That reflects the need to make it more streamlined.



The challenge that the FCA faces is the empowerment of decision-making lower down the organisation. I think the chief executive would say that he wants to reduce the layers between the top and the people making active decisions lower down. That is a welcome innovation and will be facilitated by a significant investment in new systems to support that. Data, and the interrogation of data, will be critical, and that is something that Andrew Bailey was very clear on during his tenure as well.

**Q359 Mr Baker:** I am very pleased that there is progress, as I know we all are. We are all here because we are concerned about the harms that people have suffered. Dame Elizabeth's investigation found that there was no permanent leadership in place between January and September 2015. I appreciate that that was long before your tenure but what do you make of there being no leadership in place in that period? If, heaven forbid, such a circumstance should arise again, how would you react to it?

**John Glen:** I am not familiar with the specifics around who left, who joined and the gap. We had an interim situation early last year and Chris Woolard did an excellent job as the interim chief executive. From time to time in organisations, this will occur. That often means that there is a delay in terms of the momentum of change, and it puts more pressure on the incoming permanent appointment to deliver that change. I hope that such situations will be avoided, and that comes through succession planning and clarity around having a team that can be used to bring continuity when such circumstances arise.

**Q360 Mr Baker:** I am sorry to interrupt. We are particularly blessed that you have the experience and expertise that you do, and I know you are trying to respect the separate roles that come up, but the point I am driving at is that we are in the midst of a failure where some specific leadership failings have been identified, and there was a particular period where there was a gap in senior leadership. This is what I am really trying to get to.

Let us hope you go on to a promotion in due course, but what should the Minister with this responsibility do in the event that there is an obvious gap in the permanent leadership capability of the FCA? It might be that I am asking you to speculate, but somebody in this system has to take responsibility if an institution as important as the FCA has such a gap in the future.

Given that you have FCA staff in your private office, and that you are having regular and detailed conversations about matters within your responsibility, should such a situation arise in the future, what should the Minister do? Is it the case that we do not know what the Minister should do, in which case some hard decisions need to be taken about some institutional change to cover such contingencies?

**John Glen:** To be clear, I have a single secondee on a rolling basis in my private office. This is not a hotline to the chief executive. It is just recognising the joined up nature of many of the responsibilities that I have and the nature of what I oversee in financial services.



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In respect of the gap in leadership, Charles Randell has done a good job over the last three years with respect to communicating with me about the need for succession planning for board members. Apart from him, for virtually every board member who has come in newly, during my tenure over the last three years, we have not had a gap there.

There was a gap in the chief executive consequential to Andrew Bailey taking on the role as Governor of the Bank of England. When we needed to have continuity through the particularly challenging times last year, we had the process of selection and that was concluded. Then, whomever you select, you run into the territory of where they are at the present time, in terms of notice periods and so on.

With respect to an executive appointment, sometimes that cannot be avoided. It happens in other areas. For example, at the ombudsman service at the moment, there has been an interim appointment. Obviously, it is undesirable, but sometimes it happens. What is important is that the board brings as much continuity as possible, and Charles Randell has done a good job of ensuring that.

**Q361 Mr Baker:** I am not trying to level any criticism at a particular individual in this exchange. I am conscious that we, the Treasury Select Committee, have some supervision and scrutiny responsibilities in relation to the FCA. You have some responsibilities.

I suppose what I am trying to nail down is this. If we were to spot that the FCA was in a position where there was a real lack of permanent leadership, who among us should do something? It feels like, because you have ministerial office, it is first for you to do something about it because, by the time we have held an inquiry and produced a report, it is a little bit late to get effective action.

**John Glen:** We are conflating two things here. There is the issue of what happened with respect to LCF. I was aware of that. In January 2019, the firm failed. By the summer, we had an independent investigation ongoing, and I have gone through the timeline for that. The other thing is accountability of the chief executive to the FCA board.

The responsibility of the Minister is to approve the appointments to the board, the chief executive and the chairman, but the operational relationship in terms of the executive committee being held to account by the board obviously is a matter for the FCA. In an arm's-length body that is independent, that is appropriate, but there is an ongoing dialogue, which is very important.

**Q362 Mr Baker:** That brings me to the heart really of what I thought we would be driving towards, because it is an arm's-length body. The public expect all of us, as Members of Parliament, to stand up for them when things go wrong. We all know that is what we are here for.

It feels slightly unsatisfactory, if there were a failure at an executive level within the FCA, to be saying, "That is a matter for the FCA board". All



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our constituents would reply, "What are you going to do about it as my MP?"

**John Glen:** What you are going to do about it is what you have done, which is have an inquiry, get the FCA board and chief executive to be accountable to Parliament through scrutiny, and draw conclusions about that. That to me is where the FCA is accountable to Parliament and that will continue in all circumstances.

Q363 **Mr Baker:** For the purpose of bringing this section of my questions to a close, as I am probably about there on time, we really are saying that these are some very long levers: that the Minister is there to appoint the board, the board is responsible for the effectiveness and efficiency of the executives and, should they fail, it is really a matter for the board, not for the Minister.

**John Glen:** I am not trying to absolve myself from any responsibility. I am very keen to fully discharge my responsibility. When this report was done, I have told you how I acted from December until now, and I have told you the timeline going forward.

Respectfully, I would not want to conflate how we deal with things when they fail and the ongoing challenge of the accountability of the chief executive and executive team to the board of an organisation. Given that, day to day, I am not operationally responsible, it is difficult to justify how I would intervene. I can be sure that I need continuity of board members and a chairman who is holding them to account. They are accountable to parliamentary scrutiny, as I just said.

Q364 **Mr Baker:** That brings me really to my final point. It is a difficult job, working at the FCA, for which I know we are all very grateful. A number of us have at different times been careful to say thank you. It is a difficult job and often an unrewarding one, at least one that attracts a lot of condemnation. I suppose, given that it is a difficult job, that we should continue to expect a degree of turnover in those very tricky positions.

If I could ask you for your last word, if it got to a point again where the FCA looked like it was slightly vulnerable near the top, at an executive level, and there was not sufficient permanence among those senior staff, what would you do, in a nutshell—turn to the board and instruct them, or nothing?

**John Glen:** If I was of the view that there was a loss of confidence in the functioning of the leadership of a body in my area of responsibility, I would have a very urgent dialogue with the chairman of the board about that and relay concerns. I do that with respect to issues that come up from time to time. There are obviously a range of challenges for financial services, and it needs co-operation and dialogue to resolve them. There are no restraints to that. In the end, I have to respect the fact that they are operationally independent.

**Mr Baker:** Finally, I would just say, personally from me, thank you very



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much for all you did. I know that I was one of those who procured Brexit and you were one of those who had to go through an enormous number of Committees to put in place the necessary regulations. I just want to put in place my personal thanks to you, as this is the first time that we have seen you since we left. Thanks very much.

**Q365 Dame Angela Eagle:** Minister, it has been widely reported that the former Prime Minister David Cameron lobbied you about access for Greensill—a company he had a private financial interest in—to the Treasury coronavirus support scheme. Is this true?

**John Glen:** I have released the information concerning my interactions with David Cameron. He contacted me and I referred him to the process that was ongoing. That happened on 3 April. Subsequently, we wrote to him on 25 June, or to members of Greensill, explaining to them that we would not be able to support the proposed intervention. I informed him that that letter had gone and made sure that he received that letter.

**Q366 Dame Angela Eagle:** Will you publish all the contacts, the emails, any messages that he sent to you and your replies to him?

**John Glen:** All contact I have had with David Cameron has been relayed. There is a letter that has come in from the shadow Chancellor and various other FOI requests, and I fully comply with everything that I am asked to do.

**Q367 Dame Angela Eagle:** Will you publish the exact messages between you and him?

**John Glen:** I have put in the responses that I had from David Cameron. I spoke to him on 3 April for seven minutes, 22 seconds, and I relayed the content of that conversation immediately afterwards to my private office. That forms part of the response to the FOI.

**Q368 Dame Angela Eagle:** Were there any emails?

**John Glen:** No.

**Q369 Dame Angela Eagle:** There is nothing else that you need to publish in order to cast the maximum light on this event.

**John Glen:** No, I have been fully compliant and keen to be fully compliant with everything that is asked of me on this matter.

**Q370 Dame Angela Eagle:** On the perimeter, which is one of the main problems that Dame Elizabeth Gloster's report pointed out, do you think that there is an issue or a problem with the legislation, so it is about where the perimeter lies, or do you think there is a cultural issue with the FCA about how they regarded the perimeter and particularly what was beyond it?

**John Glen:** The striking thing about Dame Elizabeth's report with respect to the perimeter is that she says that the FCA acknowledged that it had the powers to deal with LCF. It was not about the perimeter. That was



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not material to its inability to do what was required in terms of regulating.

There is a wider point about how that perimeter is extended. As I said earlier in one of my responses, we have a formal dialogue for doing that. I have always been open to extend the perimeter. We had that conversation, the chief executive and I, in January and we published the minutes of it transparently on 25 February. I remain open to that. What I want is effective regulation.

In the LCF instance, the perimeter and what was within the perimeter, if you like, was not a barrier to actually delivering regulation. It was a failure to use those powers appropriately with a firm that was authorised but conducting unregulated activities and had been doing so for two years. The issue is how the FCA deals with those firms that are authorised, where there is a halo effect of that authorisation, when they are conducting unregulated activities.

**Q371 Dame Angela Eagle:** Clearly, that is an issue. Do you think that, if a company is doing nefarious, unregulated things, that might have some implications about why it is registered in the first place, to give it that pattern of respectability so that it can effectively mislead potential customers into thinking that it is regulated, when it is really operating in an unregulated space and a very dubious one, as in this case? If a company is willing to behave in that way, ought that to raise quite a lot of flags with the FCA and lead to some enforcement activity?

**John Glen:** Yes, and the FCA recognises that this is at the core of the failing that happened in this instance. That is why it is undertaking a radical programme of transformation, to begin to identify where the risks lie and to deal with firms that are authorised under the FCA that are conducting activities beyond the regulated area, in order that its wider responsibilities in terms of fit and proper tests, for example, are being executed on firms that still come under it, even if the activities do not.

**Q372 Dame Angela Eagle:** What do you think you should be doing as a Minister to encourage cultural change and facilitate enforcement in a more effective way? It is clear from Dame Elizabeth's report that there was a great reluctance to undertake enforcement activity and more production of excuses than enforcement output with respect to this company. That is a general problem. What can you as a Minister do to ensure that there is much more vigorous and rapid enforcement of regulations?

**John Glen:** In order to enforce regulations, you need to have the right structure and empowerment of large numbers of staff to take action, so that, when you get an anonymous letter and 15 emails or telephone calls, people act on that. I believe that is what the transformation programme is about.



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It is about combining functions. I think Sheldon Mills will do an excellent job. He will play a key role in bringing these functions together and empowering people at the levels below to take ownership of subsets of firms, to identify areas and to be empowered to make interventions and take those decisions.

My job as the Minister will be to challenge the chief executive in regular dialogue over progress towards those goals, respecting the fact that this is where the gap existed that Dame Elizabeth highlighted in her report.

**Q373 Dame Angela Eagle:** Are the resources for enforcement activity something that you might think about as the Minister?

**John Glen:** There are a range of issues here with respect to criminal activity. The Serious Fraud Office is involved, and you have various live investigations ongoing. There is also the levy, which funds the FCA. Obviously, that is a lot of money. That is £590 million. We will always look at what is going on there and they will have the right to change that if they need to.

There is sometimes a case for better understanding of how agencies collaborate. It is a complicated area, based on the fact that different areas of financial services require different regulatory intervention. The Home Office is in charge overall on fraud policy. The Cabinet Office is—

**Q374 Dame Angela Eagle:** This is part of the difficulty; sorry to interrupt you. It is so fragmented, and this is a problem. It is something the Government should be looking at.

I want to ask you in my final minute or so about the demutualisation of Liverpool Victoria by Bain Capital, which would give it a bridgehead, as a hedge fund, for more hostile bids for other mutuals in the UK. Are you concerned about this? If you are, what are you going to do about it?

**John Glen:** I am not familiar with the detail of that particular firm's specific question. I am very happy to take that away and write to you on it. The bottom line is that we do have dialogue with the PRA and FCA about firms on an individual basis. I would need to look at that and discuss that with my officials in order to give you an effective answer, I am afraid.

**Q375 Dame Angela Eagle:** That would be very helpful, because there is a hostile takeover going on of a very old mutual, whose board basically told the members that it was not going to demutualise or seek to sell the business. It has now, within a few months of giving that requirement, decided to do so.

Bain Capital, which is seeking to buy it, is openly saying that it wishes to establish a bridgehead so it can demutualise other financial institutions that have grown over many years in the UK. I would appreciate a response when you have had time to deal with your officials about this, because it is very important and very current.



**John Glen:** During my time and tenure, I have been a great champion of mutuals. They have a massive role to play. I shall take that and come back to you as quickly as I can.

Q376 **Rushanara Ali:** Good afternoon. I want to focus on Dame Elizabeth Gloster's recommendation 13, where she says, "The Treasury and other relevant Government bodies should work with the FCA to ensure that the legislative framework enables the FCA to intervene promptly and effectively in the marketing and sale through technology platforms, and unregulated intermediaries". You have already touched on some of the wider points about regulation and enforcement. This case and a number of others are exposing the limits to consumer protection with current regulation. Minister, you have the online harms Bill.

**John Glen:** The online safety Bill.

Q377 **Rushanara Ali:** Can you talk us through your thinking about using the online harms Bill to provide more protection? The Governor of the Bank of England, reflecting on his time in the FCA, talked about the need to use the Bill to provide more consumer protection on this agenda.

**John Glen:** The online safety Bill will be coming in the next Session. I welcome the pre-legislative scrutiny that the Secretary of State for DCMS has agreed to. That will give us an opportunity to explore how and where fraud fits into that. That is welcome, because this area needs serious thought. This report exposes the challenge that exists, with the fact that so many financial services products are marketed online. We are working very closely with DCMS on a separate piece of work around the online advertising programme.

We have a situation at the moment where ads through platforms are accessed by the public and there is a question: when a platform takes a fee to host something, what is its responsibility? It seems to me, if it is doing something with that ad and there is an active exchange with the entity that is putting up that ad, some responsibility must lie there for the underlying integrity and probity of what is being advertised. This is something that we are looking at with DCMS. Subsequently, with the online safety Bill, in pre-legislative scrutiny we will look at the issue of fraud and how that should fit into that, or not.

Q378 **Rushanara Ali:** Given the weight of support for using the online harms Bill, should we expect you and colleagues in DCMS to be using that piece of legislation to address this particular problem that has been exposed by the LCF scandal? Could you confirm that we are definitely going to see some results in terms of tightening up the legislation to protect consumers—yes or no?

**John Glen:** Pre-legislative scrutiny has not happened yet, so we will see what happens through that process.

Q379 **Rushanara Ali:** Would you like to see that happen? The former head of the FCA has set out that he would like to see this Bill being used to close



these loopholes. Would you like to see that? Is this something that you think would be valuable? Can you confirm that you will make this happen?

**John Glen:** I do not have a unilateral right to decide on this, but we have to deal effectively with fraud. It seems to me that the online safety Bill is an area that may provide that vehicle. I look forward to exploring and seeing how that fraud issue is explored in that pre-legislative scrutiny.

If it is not, we will need to find another way of coming to deal with this really important challenge that we cannot let go by. That is why, in the meantime, in the advertising programme, we are having roundtables with the platforms, the tech companies and the Home Office, following conversations I have had with UK Finance, to get to grips with where responsibilities lie in this area. I have described where there are some gaps, and we need to come to terms with that.

Q380 **Rushanara Ali:** You talk about advertising. The work you are doing with the Home Office and others is really welcome. Would you agree with Martin Lewis when he talks about the need for the telecoms regulator, Ofcom, to be given new powers to force online platforms such as Facebook and Twitter to take stronger action on user-generated scams?

**John Glen:** We need a joined-up approach across Government. When we have a significant piece of legislation imminently going to be scrutinised, that will be the process for putting all these options on the table and coming out with a coherent response. That is the best way to do it, so that people can be reassured that we are looking at all the options. Martin Lewis always makes a very useful and clear contribution to this discussion, and I will look at that very carefully.

Q381 **Rushanara Ali:** Dame Elizabeth told the Committee about the issue of unauthorised cowboys operating online. You have exposed some of the challenges, in answer to both my questions and Dame Angela's about cross-governmental working. Are you going to sort these cowboys out, Minister?

**John Glen:** I obviously want to see improvements to the regulation. I want to see the public reassured about what they can access and the integrity of what they can access. I stand ready to work with law enforcement agencies, the Home Office and DCMS to improve the legislative framework so that less harm can be caused to particularly vulnerable consumers, who have been taken advantage of, in this case, by a criminal activity, but can often be taken advantage of by unscrupulous actors. Of course, I will do everything I can.

Q382 **Rushanara Ali:** Charles Randell told the Committee that two options were proposed in the Treasury's July 2020 consultation paper on the regulatory framework for the approval of financial promotions. You are familiar with them, but I will reiterate them for the audience: to restrict approval of the financial promotions of unauthorised firms through the imposition of requirements by the FCA; and to specify that the approval



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of financial promotions communicated by unauthorised persons is a regulated activity by FSMA.

Can you say what your view is on each one? Charles Randell talked about how making the approval of financial promotions a regulated activity would be a huge help. What is your view of the two options?

**John Glen:** The issue is who is going to access what financial products. We have some challenges here with respect to getting that balance right, while allowing high-net-worth and sophisticated investors who currently have certain criteria to be able to access certain products. We have banned the minibonds being accessible for the general public. We have to get that balance right. I am nervous about saying, "Only extremely wealthy people can access certain products", but I am equally unhappy about a situation where there is an inherent vulnerability built into a lack of restraint. I will do what is required to protect people, but not to withdraw the right of people to make investments as part of a balanced portfolio of risk where they have more means available.

**Q383 Rushanara Ali:** Earlier, you talked about 30 minibonds that over the past six or seven years you had identified. We can see the proliferation of the targeting of "less sophisticated" investors, as opposed to people who have access to lots of advice before they go on to invest. We have also seen pension freedoms and so on, so people want to invest.

When it comes to FCA investigations and so on, as we have seen from the evidence sessions, the FCA often has to balance the responsibility of prudential regulation and the breadth of activity that it is responsible for. It takes a long time to get to the bottom of these things and for the impact on ordinary citizens who find themselves victims of these scams, as you have seen with this case, to be redressed.

With the legislative framework that you are talking about and the fact that this is a cross-departmental responsibility, one of my concerns, which I am sure is shared by other colleagues on this Committee, is that this could fall between stools.

Can you just talk us through what the framework is going to be within Government? You mentioned the advertising element to legislation. Is there a particular sub-committee that will look at these issues in the round between DCMS, Home Office and Treasury, with a lead that can drive this through, whether it is you or other Ministers, so that we can be assured that there will be proper consumer protection around these unauthorised or unregulated types of products? It is proliferating and, every single day, we come across new scams. Some of us have been targeted by them ourselves.

**John Glen:** We have the strategic crime board, which is co-chaired by the Chancellor and the Home Secretary. That involves representatives from DCMS and law enforcement agencies, and is an attempt to bring all this together.



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As I was beginning to say to Dame Angela earlier, there are different lead responsibilities: the Home Office for fraud policy and Cabinet Office for countering public sector fraud. We are responsible for FS and DWP for pension scams. You can see the logic for those different responsibilities. Then the FCA is responsible for preventing fraud and enforcement of regulation.

**Q384 Rushanara Ali:** Can I just check that point? Will that board look at these impending pieces of legislation to answer the questions we have been exploring today, so that we do not have a situation where DCMS is focused on its priorities and this particular agenda gets lost in the rush to get legislation through? Is that the place where this is going to be squared?

**John Glen:** It is important to express how joined up Government can be. I have been in close contact with my colleagues in DCMS over these matters and have made strong representations on this. It might be helpful to bring in Katharine Braddick here, who might more effectively talk to the nature of collaboration on this issue across Government.

**Katharine Braddick:** There are two sets of very complex overlapping issues here, very clearly, which the Committee is focusing on. There is a broad Government agenda to address online safety, through the promotion of fraud using online platforms and, specifically, the advertising used on platforms and its role in fraud.

As the Minister has been describing, through ministerial and official routes, we work closely with the colleagues in DCMS and the Home Office in the lead on those issues, to ensure that financial services and conduct interests are integrated. There is a legislative package on safety and there is a DCMS programme on online advertising.

There is then a broader set of questions about conduct, financial promotions, and what is in and outside the perimeter, which is more narrowly within the gift—some of it exclusively—of the Financial Conduct Authority, and some of it of the Treasury, where we can legislate.

In those areas where we can act, we do. For example, the FCA has not waited to strengthen the financial promotions regime. We are not waiting in order to strengthen the regulatory gateway for financial promotions, because that extends beyond the question of online, but is exclusively a question about financial services.

I hope that does not sound evasive, but what I am trying to describe are two very broad sets of interests, which overlap in the area of online activity, essentially, where there is quite a developed process at official and ministerial level to connect those. Where we do not need to do that and where we can just pursue the harms and the dangers that we see, both we and the regulators simply proceed.

**Q385 Felicity Buchan:** Good afternoon; it is good to see you both. My



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questions are on the culture prevalent at the FCA. John, can I ask you a general question first? What observations would you make on the culture of the FCA?

**John Glen:** It is a very large organisation that has a very wide range of responsibilities. There are some excellent people working at the FCA and they are trying to fulfil a very challenging role, in the context of significant change to the responsibilities they have had over the last six or seven years. That is the context.

The report and the actions of the new chief executive with respect to transformation demonstrate a need to empower decision-making and intervention at a much broader level lower down, on a wider basis. Those structural changes and the reforms that are allowing data to be collected and interrogated more efficiently should enable that.

Q386 **Felicity Buchan:** You mentioned intervention. Clearly, there was a reluctance on the part of the FCA to use its powers to intervene. Do you think the FCA should be more interventionist?

**John Glen:** With respect to this specific investigation, Charles Randell and the Treasury were working together to try to work out the best terms to do that. They had a board decision where they could not set up an inquiry based on section 73, which would need to have regulated people involved. We directed them with a remit of that inquiry, using that section 77 power under FSMA 2000, which they then took forward very quickly. They were responsible and we signed off the point with Dame Elizabeth Gloster. They co-operated very fully with that and they acted quickly to deal with the recommendations when that report came out in November.

The FCA did what it needed to do to respond to this when there was clarity that there was a problem. When Baroness Morgan, then Chair of this Committee, wrote to Charles Randell and me requesting an intervention, that happened pretty soon after.

Q387 **Felicity Buchan:** Charles Randell told this Committee that he thought the FCA was too risk averse. If I read out the quote, he said, "It is absolutely clear in case after case that where we have been averse to acting because of our perception of risk, we have ended up with a much bigger risk than we would have had if we had acted". What can you do in Treasury to address that risk aversion?

**John Glen:** Encourage the delivery, as quickly as possible, of this transformation plan; support the chief executive as he tries to change that expectation of intervention earlier; work with them on the remit when that transformation is finished or sufficiently developed, so that we can have that conversation, although I am not saying it has to be completely finished; and be open to perimeter evolution through regular dialogue.



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I listen very carefully to what this Committee says, what colleagues in the House say, what all-party parliamentary groups say and what industry tells me. I have had well over 50 one-to-ones with chief executives of companies since the start of January. I feed in what their concerns are.

We also have the future regulatory framework review. That will have a second stage of consultation shortly, which will define on an enduring basis that relationship between the FCA, the PRA, the Treasury and Parliament. That is really important too: getting that codification of the accountabilities between those organisations and entities clear. That will go some way to holding the FCA to account for what primary legislation we in Parliament enact, and being sure that we can properly scrutinise the rules that it puts in place and whether they meet those obligations.

**Q388 Felicity Buchan:** Elizabeth Gloster in her report said that the FCA should be the first level of protection against fraud for retail investors, rather than the SFO. Do you agree with that?

**John Glen:** People look to the FCA as having a significant role in preventing fraud. There is no doubt that authorised firms have to have mitigations and systems in place to deal with financial crime. They maintain a register of authorised firms. They run ScamSmart, to protect consumers. Then they also have a responsibility to enforce regulation and apply sanctions to firms. They have a significant role, but the Serious Fraud Office, the National Economic Crime Centre and other law enforcement agencies will also have a significant role to play, as will Action Fraud.

It is an area of complexity, but it reflects the complexity of financial services and the different levels of expertise that exist across those organisations. A regulator will want to know that the firms it is authorising have systems in place to prevent fraud from happening. This report throws into focus the challenge to improve on the quality of that supervision and regulation.

**Q389 Felicity Buchan:** There clearly was a failure of supervision here. Are you concerned that there may be other companies where there has been a similar failure?

**John Glen:** No regulator in any jurisdiction can guarantee that there will not be more failings. We can look with humility and determination at the recommendations that have come out of this exhaustive report and enact them, in order that we maximise the chances that future breaches do not occur.

No regulator can remove risk. When you are dealing with that volume of companies, of a range of sizes, no regulator will be able to be absolutely 100% certain. We can aim to improve all the time and put in more and more safeguards.

We have already had a discussion about what legislation the Government can bring forward to deal with the fraud risks around online safety. We



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have to keep things under review, in the same way that, when it comes to buy-now-pay-later funeral plans, where we see challenges in the market, we work with the FCA to intervene, in order to ensure that consumer detriment does not occur.

**Q390 Julie Marson:** Good afternoon, John; it is nice to see you. I would like to cover the FCA transformation programme. I have some questions in general and then I would like to turn to the letter that Charles Randell sent on the 16th.

The FCA describes its transformation agenda as ambitious. I am sure most of us would agree that ambitious is good, in view of what has happened. How does that combine, in your view, with realistic? Can the regulator balance that ambition in its transformation with its already complex, competing priorities?

**John Glen:** The new chief executive, with 20 years' experience drawn from the Treasury and the private sector, has set about his task with energy and drive. That comes over in all the conversations that we have. He has appointed four new individuals with a wide range of experience in financial services as practitioners. That is really important. There is a significant level of ambition and urgency around what he is trying to do. He recognises the fast-moving nature of the industry and he is going about that in a determined way. The early signs are very positive.

**Q391 Julie Marson:** So you do think that they are aware of the need to be realistic, to prioritise correctly and to achieve what they want to achieve.

**John Glen:** I am sympathetic to the representations. I understand the FCA's overall concern, over the last few years, that there is an evolving scope of responsibilities and a greater expectation of compliance with an evolving set of obligations.

The ultimate challenge is to reset the organisation's capacity to interrogate data, to make judicious interventions proactively and to make the culture of the organisation more empowered at a lower level, so that issues can be examined and resolved swiftly.

We also need to recognise that the FCA is a world-renowned regulator. When I speak to my counterparts in other jurisdictions, they want to hear about the scale box, the sandbox and other innovations that the FCA has undertaken in fintech and other industries. They want to know the insights of how we deal with crypto-assets and the work that goes on there. There is always that tension between innovation and transformation of the core capacities of a very large organisation. That is something that the chief executive will weigh up as he moves forward with the change he has to bring about.

**Q392 Julie Marson:** What role did the Treasury have, or does it still have, in the development of the transformation programme?



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**John Glen:** The transformation programme is an operational matter for the chief executive and his executive team. They will report to the board and the chairman of the board on what they are doing.

As I mentioned and Charles's letter of 16 April sets out, there are significant changes to the structure and then operational improvements that flow from that. The Treasury does not define that transformation programme, but we observe it closely and interrogate what is going on as part of the scrutiny process that I have.

Q393 **Julie Marson:** Do you think the FCA will be able to implement all aspects of the transformation programme without increasing its fees?

**John Glen:** That is a very difficult question to answer at this point. It has started rapidly and there is a lot of work ongoing. There will need to be significant investment in new systems; that is inevitable. There may also be savings in other areas. The chief executive and I have not had a discussion about that matter yet, but it is not desirable for that levy to increase for firms at this very challenging time for everyone, as we begin recovering and come out of what has been a desperately challenging time for consumers, but also for businesses in financial services.

Q394 **Julie Marson:** Moving on to the letter that we have been referring to of the 16th, it sets out some of the changes that it has been making, some of the progress and some of its future ambitions. Is the pace of progress what you had expected or were hoping for?

**John Glen:** Yes. The last meeting I had was on 17 March with the chief executive. There was a lot of work going on there and, as I say, the urgent nature of those appointments was welcome. A new individual came on board this week to deal with the ESG work at the FCA. I have a positive view of the chief executive's capacity, intent and progress with respect to his transformation programme.

Q395 **Julie Marson:** In that letter, it sets out a further 90 actions. Are you confident and do you think it is feasible that they will achieve those by the year-end? That is the timescale they are aiming for.

**John Glen:** I sincerely wish them well with that. There is a lot of energy and a lot of work going on. I welcome Charles Randell's letter, which helpfully sets out in detail for you and for me the work that is going on. I will look carefully, obviously, at the recommendations he makes in the final portion of his letter to Government, which I obviously take very seriously.

Q396 **Julie Marson:** How will you hold them to account if milestones start to be missed or you do not feel that the transformation is meeting the outline timescales and direction that they are heading for? How will you actually hold them to account?

**John Glen:** The best way for this to work is for me, as a Minister, to create a culture and a relationship between us that is open and



transparent, where we disagree about things and we can have dialogue that leads to resolution. I hope it will not be a question of me just putting a bare set of metrics up. That is not how it should work. How it should work, and I think it will, is that the chief executive comes to me and says, "Look, here are some things we are making progress on. Here, I see some challenges. Can we work out how we move to the next level on this and deal with that?" That is the best way to do it. Time will tell.

I will have another meeting with the chief executive imminently. I will then find out how the new appointments have bedded down and what progress is being made. I imagine that there are significant further changes. Obviously, that is the process that he will be responsible for. I will ask him probing questions on that, but also hopefully in the spirit of wishing him well in delivering.

**Q397 Julie Marson:** Nikhil, the chief executive, has previously said that he is happy to discuss progress, "including any risks I foresee" to the implementation of the programme. Do you have a feel for what those risks might be, in your own view, or any risks that he has identified to implementation?

**John Glen:** If we can take that back to the LCF report, that shows that there is an aspiration from July 2016—and Andrew Bailey set out the challenge with respect to better use of data in the work that he initiated—to transform the capacity of the organisation at its core, while dealing with ongoing business as usual. That will always be the challenge and that tension is going to exist on an ongoing basis. They cannot stop and reset, because 60,000 firms need to be regulated.

Going back to my management consultancy days, it is about how you deliver change in a live working environment, with high expectations of day-to-day delivery. The chief executive is well equipped and the people he has appointed, with their significant private sector experience, are well acquainted with this problem and how to handle it.

**Q398 Siobhain McDonagh:** I appreciate that this has been a long meeting, Minister, but I would like to ask some questions about why the Treasury directed the independent investigation into LCF rather than the FCA, and whether the direction was sufficient to capture the issues in the regulation of LCF with regard to responsibility.

The FCA asked HM Treasury to undertake this review. The FCA can undertake its own inquiries under section 73 of the Financial Services Act 2012. Having now seen the results of Dame Elizabeth's inquiry, do you still think that the Treasury's intervention was required?

**John Glen:** There was a constructive conversation between the FCA and the Treasury over how this inquiry started. Nicky Morgan, at the time, wrote a letter to us and to the chair of the FCA, to ask for an investigation at some point. It may have been 19 March or something like that. The board met and decided it did not have the powers under section



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73. It asked us to then direct it to use the powers under section 77 to do this inquiry.

We did that on 1 April. We did that, focusing on a remit that would allow them to get to the heart of what went wrong. That did not cover personal culpability, but it did get to the heart of the regulatory failure. I am very pleased by the thoroughness of the work that was done by Dame Elizabeth and where we have got to. We have urgently worked on the compensation mechanism that was clearly expected to come from the conclusions she produced in November.

**Q399 Siobhain McDonagh:** Was the Treasury's direction sufficient in allowing her to capture the failings of the FCA's regulation and supervision of LCF?

**John Glen:** It captured many, many elements and I welcome the insight it brought into the organisation. The way that the FCA and the Treasury responded, issuing sincere apologies to bondholders, the way we got on with those numerous recommendations, four for the Treasury and several more for the FCA, and the energy with which the chief executive of the FCA has taken this forward, in terms of the transformation, demonstrate how seriously we take the observations of that report.

**Q400 Siobhain McDonagh:** What about the issues of personal culpability? She has provided that she was restricted on identifying personal culpability. Should there have been a wider remit? Is there a need to reform section 73 to allow that sort of work?

**John Glen:** What she did got to the heart of the regulatory failure. She identified where individuals had to take responsibility. That is important. It would have been a much higher bar of work, interrogation and investigation to do that and would have delayed things further.

I hope people will recognise that, given the reference I made to other scandals, like failures of regulation with Barlow Clowes and Equitable Life, this is a relatively quick response from when maladministration was determined. It is important to be practical and real about what a report can do.

It makes very clear assessments of personal responsibility. You are right that it does not make assessments of personal culpability, but to do so would have taken a much longer and more expensive inquiry. This was already a significant undertaking for Dame Elizabeth and the team that she worked with.

**Chair:** We have concluded in good time for the vote, which is going to be in about 10 minutes, so thank you to everybody for arranging that. Can I thank you, John and Katharine, very much indeed for appearing before us this afternoon? It is fair to say that LCF has been a long and very sorry tale. Yet, among all the bad things, there is some good and some hope. Perhaps much of that, as we have touched on throughout this session, flows from the very fine work that Dame Elizabeth Gloster carried out with her very thorough report and the various recommendations



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contained within it. Could I place on record the gratitude of this Committee to her and her team for all the work that she has carried out?

It is good to hear, John, that HM Treasury and the FCA are accepting the recommendations. You made that very clear shortly after the report appeared. This Committee will be looking very closely at the changes, both within the FCA and in relation to those recommendations that relate to the Treasury, to see how those come about and bed in as we go forward.

This is a personal comment, because the Committee has not had an opportunity to discuss it among ourselves, but I welcome the approach you have taken to compensation, coming forward with what seems to me to be a scheme that will very substantially assist a very large proportion of those who have lost out and have not qualified under other forms of compensation that are available to others. We might write to you with some further questions about the compensation scheme, because I am just aware we probably did not get a chance today, with so much to cover, to really dig into that a bit further. I will want to write with some follow-up questions.

Could I conclude with what I hope you will take as a compliment? You certainly come across as a Minister who has been on top of his brief during this session. I am grateful to you for the seriousness with which you have taken your appearance before us this afternoon.