HOUSE OF LORDS

Revised transcript of evidence taken before

The Select Committee on the European Union Financial Affairs Sub-Committee

Inquiry on Brexit and financial services in the UK

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Watch the meeting

Members present: Baroness Falkner of Margravine (Chairman), Lord Butler of Brockwell, Lord Desai, Lord Haskins, Earl of Lindsay, Lord Shutt of Greetland

Evidence Session No. 4 Heard in Public Questions 27 - 37

Witnesses:

Simon Gleeson and Peter Snowdon

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Examination of Witnesses

Simon Gleeson, Partner, Clifford Chance, and Peter Snowdon, Partner, Norton Rose Fulbright

Q27 **The Chairman**: Welcome to Mr Simon Gleeson from Clifford Chance and Mr Peter Snowdon from Norton Rose Fulbright. Thank you for attending our inquiry into the implications of Brexit for the financial services sector. You have a list of interests that have been declared by Committee Members. This is a formal evidence-taking session of the Committee and a full transcript will be taken. This will be put on the public record in printed form and on the Parliament website. You will be sent a copy of the transcript and you will be able to revise any minor errors. The session is on the record. It is being webcast live and will subsequently be accessible via the Parliament website. Would you like to make any brief opening remarks or shall we go directly to questions?

Simon Gleeson: We can go directly to questions, I think.

Peter Snowdon: I am very happy to go directly to questions.

The Chairman: Thank you very much. I will kick off by reminding Mr Gleeson that we had an initial go about the implications of Brexit when we met on 6 July. Now that there has been sufficient time for reflection and we have a clearer idea of how the negotiations will be embarked upon, what is your reaction to the prolonged political uncertainty? How does that affect your day-to-day operations? From your perspectives, what do you think the new as well as existing challenges are going to be, given the information we now have? Mr Gleeson, please could you kick off.

Simon Gleeson: Thank you very much. I am not sure that we know a great deal more now, at least on the public side, than we did slightly earlier on. The important thing, and this goes to some of the issues that will arise out of the later questions, is that the industry certainly knows a lot more about its position because ever since the referendum it has been engaged in very detailed analysis along the lines of: what happens? In my experience—Peter's may well be different—the industry has embarked on a fairly intensive exercising of asking: if we did nothing, what would the impact be? Only once it has managed to answer that question can it go on to the "and what should we do about it?" part of the analysis. The key point is that historically the industry by and large has not thought about its business in terms of regulatory permissions. So the process of working out which activities, transactions and relationships we would no longer be able to manage has been extremely complex. It is also very legally intensive. I am not convinced that any institution feels it is in a position to give a hard answer to that. Where we are at the moment is at the end of a preliminary period of analysis where I think we can begin to quantify what the impact would be if no mitigatory measures were taken. I think that stage 2—working out what the mitigation measures would be and how much they would cost—is in the future.

Peter Snowdon: I agree. People have been mapping what they do. I know that for some of the European banks, their regulators are asking them to map what they do, to work out exactly what it means for them. A vast range of firms are active in this country—local firms, obviously, but also firms coming in from the European Union and third countries—so the geography is quite mixed. They provide many different types of products and services and they are subject to various different pieces of European legislation. It is hitting people in many different ways. When it comes to mapping exactly what people do, obviously, firms focus on the business. As Simon said, they are not necessarily focusing on regulation. So they will often discover that they need permission to do something and had not realised it. That adds a complication as well.

Q28 **The Chairman**: Are you aware of your clients deciding to relocate—we will come later to passporting and so on—at this point in time, ahead even of triggering Article 50?

Peter Snowdon: My experience is that people are looking at it. Anecdotally one hears that some people have pretty much decided to shift. But my general experience is that people are looking at it and thinking where they might go. They are thinking about whether they have another entity within their group that might be able to be upgraded or whether they need to find another jurisdiction and seek authorisation and so on. As you know, that process takes time.

Lord Butler of Brockwell: Could I ask for a definition of "people"? You say "people are looking at it". I am not asking for specific examples but what categories are most looking at moving?

Peter Snowdon: In UK terms, it is third-country institutions which have come to the UK to get access to the European Union and which are concerned that they will not have the sort of access they anticipated when they first came here. That is the first group. The second group—again, UK-focused—are UK-owned firms, if I can put it that way, which are considering how they would carry on their European business in future.

Simon Gleeson: I think that pretty much every firm of any significant size is making sure that it has an EU-authorised subsidiary somewhere, which is up and running and to which it could transfer business if the necessity arose. Not having that in place as an available alternative would be a very strange management decision. A lot of the activity that is going on at the moment is the establishment and re-permissioning of those entities, but it is still some way away from the actual moving of activity, staff or business.

Q29 **Lord Desai**: There are all these regulatory dossiers around. If we were to lose passporting, how much would these things allow us still to do business? Are they really suitable for non-EU countries?

Simon Gleeson: There are some European directives—MiFID, AIFMD and EMIR—that have what are effectively equivalence provisions built into them. They say that firms based outside the EU can do business inside the EU provided that the EU is satisfied that the regulations in the country concerned are equivalent to European regulations. That is true of only some directives. The most important ones that have no such provisions are the Capital Adequacy Directive, which governs the provision of banking services—lending, deposit-taking and things like that—and the UCITS directive, which covers retail asset management. The general view—certainly of the clients whom I have spoken to about this—is that those regimes are possibly useful bridges but they do not form a basis for any sort of business planning. The point there is that equivalence determinations are fundamentally political and are regarded as precarious. They can be removed at very short notice, they cannot be counted on and they can potentially disappear as soon as either side introduces a new legislative provision that is not matched on the other side. So certainly the view among the institutions that I have spoken to is that, although possibly useful in the short term, those measures, even where available, do not form a useful basis for any sort of commercial planning.

The Chairman: I wonder whether I can pick you up on that. You said that in your view equivalence decisions are fundamentally political; nevertheless, they are justiciable, are they not?

Simon Gleeson: They are certainly justiciable. The most prominent equivalence determination of the last few years has been the discussion about whether US derivatives clearing houses are equivalent to the European regime. In that determination it was fairly notorious that the regulatory experts took less than six months to conclude that they broadly were, and there was then two and a half years of discussion before the recognition was actually made. I think it is fair to say that that discussion happened almost entirely at a political rather than a technical level.

Peter Snowdon: To pick up on a point that Simon made, equivalence is a dynamic concept, so it can change and there can be challenges. Because European law will obviously move on, there will continue to be European court judgments, and ESMA and so on will produce guidance. You may well be equivalent on day one and, before very long, find that you are either forced to adopt a piece of European legislation or a decision or you will lose equivalence.

Q30 **Earl of Lindsay**: If the current definition, understanding and practice of equivalence is not, as it were, a route that would inspire certainty and confidence in the sector as the future means by which UK-based financial services could access the European single market, what is the answer?

Simon Gleeson: The answer in the broadest possible terms is some sort of binding international arrangement. I am choosing my words very carefully here because we have to avoid the word “treaty”. But it would be some sort of binding international arrangement that gave confidence to the market that mutual rights of access—we are talking "mutual" here; this is not about the UK accessing Europe, it is about the continuation of a single European continental financial market—would continue to exist for an extended period. As Peter says, the only way that that can happen is if it involves some sort of commitment by both sides to maintain their legislation in at least a co-ordinated fashion. As soon as one side goes off and does something radical, any sort of co-operation must necessarily fail at that point.

I would like to say one thing to follow that up. For policy reasons, it is a terrible mistake to look at this as being primarily about market access. The most important thing as far as the financial markets are concerned—this will unquestionably remain post Brexit—is ensuring appropriate regulation, supervision and enforcement. After the G20, it was absolutely clear to everybody that there was only one way in which you could deal with the largest international banks and financial firms: their regulation and supervision should, as far as possible, happen on an integrated basis across all the major markets in which they operated. If that could be achieved through some sort of relatively binding agreement between the UK and the EU, the rights of access problem would to some extent solve itself. If we have a relatively integrated regulatory and supervisory mechanism, the obstacles to access within that mechanism should to some extent fall away. The core answer to your question is that, whatever that is, it has to be embodied in some sort of international instrument that the market has a reasonable degree of confidence will endure for some time and will not disappear tomorrow morning.

Earl of Lindsay: Are there no existing instruments—albeit rather modest in their current guise—or protocols or agreements between regulators that could be wrapped up as an alternative to creating a fresh treaty from scratch?

Simon Gleeson: There are all sorts of agreements, memoranda of understanding and other bits and pieces, but the difficulty with inter-regulatory agreements is that they are necessarily trumped by intergovernmental agreements. Regulators are very limited in what they can agree with each other without legal backing and justification.

Peter Snowdon: Many of the MOUs focus on information exchanges rather than hard issues, but there is a kernel of a possibility of developing some co-operation between regulators from those sorts of agreements. For example, we have a number of non-EU banks with branches in the UK—American banks, for example—and that works because there is confidence in what the Fed does, and the Fed is relatively confident about what the PRA does. That is obviously essentially a working arrangement between regulators but it might be possible to build on that at, say, a European level. We are helped there in the sense that at least the eurozone has one institution which is ultimately responsible for prudential regulation—that is, the ECB.

Earl of Lindsay: There is one further angle to equivalence and how it might impact if it becomes a major part of a Brexit negotiation. You have already touched on some of the challenges, but would you also see the way that equivalence operates as being potentially constraining, especially for a financial industry in this country that has tended to be quite innovative? I suppose you might argue that the creativity around the regulation of the financial sector in the UK has also been innovative. Do you see a possibility that equivalence could stifle that innovation?

Simon Gleeson: That is unquestionably correct. Any enduring equivalence arrangement would have to be based on some sort of agreement between the UK and the EU not to diverge too radically from each other's regulatory structures. You are quite right: the UK has pretty much dictated regulation in Europe since the early 1990s. When that stops, it is likely that regulatory change in Europe will slow down to a trickle, whereas regulatory change in the UK will continue to develop. So it is absolutely right that if the UK entered into an agreement to maintain strict equivalence, the problem it would face would be the difficulty of changing its own rules in order to accommodate the markets as they developed.

In the United States, for example, it is famously extremely difficult to change the legislative structures under which US financial regulation operates. There are a number of areas where businesses have migrated to London simply because the Americans have found it impossible to change their regulatory structure sufficiently to accommodate business as it develops, so I agree that that is potentially a real problem.

Q31 **Lord Haskins**: Earlier this morning we heard from three distinguished witnesses who took us back to look at the broader picture. All three made the argument that there is a financial ecosystem based in London and we should not take pieces away from it because that may affect its whole structure. On the other hand lawyers, being what they are—wonderful people—see opportunities in clients rushing to them asking about the legislative issues that they should be dealing with. There is a danger that the lawyers will approach this in a piecemeal way whereas the big players such as the banks we talked to earlier are saying, "Let us understand the broader picture". They were rather dismissive when talking about passporting. They said that it is one part of this and equivalence is another, but if you get into that detail you miss the bigger picture. I hear lots of people saying that they are concerned and they should get the lawyers to take a look. The Government would love to rush down that route without standing back and asking about the fundamental issues here for the City and the financial services of this country.

Simon Gleeson: First, I entirely agree with the point about ecosystems. Part of the reason that it has been so difficult to do an analysis of the impact of losing any particular passport is that you can talk to the man who covers, for example, Siemens as a corporate client and ask, "What do you sell?". The answer is, "I sell the entirety of the product range of the bank, everything from payment systems to lending to foreign exchange hedging, you name it. I cannot tell you what my position would be if I lost the right to offer one of those products but not the others". It really comes down to the point that banks are a service industry which provide bundles of services. Certainly, our attempts to take businesses apart passport by passport have proved to be extremely difficult because we are now aware in a way that I do not think we were beforehand of just how poorly the passporting and legal structure maps on to the commercial business of the banks.

Peter Snowdon: Also, there is an interrelationship between firms that come into the UK. For example, white labelling services might be offered to a foreign bank coming into the UK. If that bank goes, that hits the UK institution. What worries me is that we might almost have death by a thousand cuts because bits and pieces will go, but the accelerator effect on the financial services businesses that remain will be significant because they will be losing clients and the people who they can sell their services to.

Lord Haskins: Is that not a bit premature? You are saying that clients may be making up their minds about what they are going to do now, almost to get a competitive advantage. Would you not say that that is a bit previous, as we say in the north of Ireland?

Simon Gleeson: Certainly it is today. The key point here is that clients can move their business from one bank to another considerably faster than a bank can relocate its business from one country to another. The clients have the option here. They can afford to wait until the last possible moment because if their relationship bank cannot service them, moving is easy. The challenges for the relationship bank is how to configure itself to deliver those universal services.

Peter Snowdon: The legal process for taking clients from one institution to another is lengthy. We have that facility within UK legislation, but it may not apply in all situations and it is a court process. It takes time, requires a lot of planning and is expensive.

Lord Haskins: So what you are really saying is that the Government should be talking to the clients to find out what they are going to do and how they are going to behave, or will the clients not give them an answer?

Simon Gleeson: Why should they? The attitude of the clients of financial services to the financial services industry has always been extremely straightforward: you make your dispositions, we will look at them and tell you whether we like them or not.

The Chairman: Mr Snowdon, given that you serve on the committee of the Association of Foreign Banks, are you able to tell us what is going on in the EU 27 and the non-EU financial services firms in terms of their planning and the impact that that will have?

Peter Snowdon: I know that the AFB has done a very good survey, which I think it is going to share with this Committee. Some of the responses are interesting. I think that a lot of people are waiting to see what they are going to do. There are some red lines, one of which is clear: if branches of EU banks are forced to capitalise here, that is pretty much a red line for many of them. Quite a lot of work has been done by the Boston Consulting Group and others as to what the cost of that would be, but it will be many billions of euros across the piece. That is one issue.

Interestingly, some of the third country banks are not too concerned because they come to London for other reasons. It is not just European business that people come to London for. But I think that we should not underestimate the potential consequences for EU banks of being unable to access London as well. They do not come here just to do UK business, it is also a way for them to access third-country markets. So there are consequences. Certainly, looking at the survey, a lot of them are waiting to see what happens. Of course the bigger ones may not have that luxury because the consequences of it not going in a way that suits them would result in an awful lot of work for them in restructuring their businesses.

The Chairman: Are they starting to restructure already?

Peter Snowdon: Some of them are thinking about it. This is to some extent anecdotal, of course. We meet clients and discuss it with them. They are certainly thinking about it.

The Chairman: And this survey will be shared with us.

Peter Snowdon: Yes, I believe so.

Q32 **Lord Shutt of Greetland**: Earlier in our deliberations you told us that clients have already been setting up subsidiaries in other places. What sorts of costs are involved in all this given the various legal, operational and regulatory differences? When you say that people are setting up subsidiaries, will one of them do in that it would then have passporting rights everywhere else? Could there even be benefits in that in terms of the regulations in a particular country where they intend to pitch? Would you like to discuss this with us in terms of costs in particular as well as any other relevant important matters?

Simon Gleeson: It is a very big subject. The short summary is that setting up a legal entity and getting it authorised is not in itself a particularly expensive exercise. The issues arise if you go to a country and say, "I want to get a small subsidiary authorised to do financial regulation". The first question the regulator will ask is, "What level of business are you going to do in it?". If it is a few tens of thousands of pounds it is very easy, but if you are talking about moving billions-worth of capital and hundreds of billions-worth of trading volume into the entity, the regulator in that country—this is almost universally true—will say, "I want to see management, the systems, the controls and the staff actually physically in this country". There is a sort of fantasy that floats around from time to time that it is possible to channel business through a brass plate entity without incurring significant costs. That may have been true at some point 20 years ago, but no European supervisor is fool enough to fall for that today. The way that the analysis works is that you look at the volume of business you want to transfer. You then have to ask, "How would I go about moving everything related to that business to the place I am moving to?". That is where the costs move out of the millions and into the measurable fractions of billions. It is a very expensive business. In the words of the old joke, the way that the financial system works is if the management tells the staff where to go, the staff will tend to tell the management where to go. This is not the sort of industry in which you can say, "You are going to relocate to Poland tomorrow morning". So there are physical problems and financial problems.

As far as regulation is concerned, because you are talking about moving to somewhere in the EU, wherever you move you will be broadly subject to MiFID, CRD—whatever it may be. There is relatively little difference in regulatory structures between one European country and another. In some respects, the selection is easier than it might otherwise have been. But it is still the case that the attitude of the local regulator is probably the most important thing to a bank that is considering relocating a substantial part of its business elsewhere.

Lastly, Canary Wharf may well be the most expensive place in London to keep employees so many banks have been moving activities out of London for some time but those have generally been back-office and service activities. Moving significant front-office activities around is something that we are going to have find out how to do and how much it will cost because it is not something anybody has done for a very long time.

Peter Snowdon: There has been a lot of talk about different jurisdictions but they are not necessarily blessed with regulators that have the experience of regulating some of these businesses. We are very lucky in the UK—although industry does not always think so—in that we have two really good regulators. That is not necessarily the case in some of the jurisdictions that have been put forward as possible relocation sites. For example, some of the Irish law firms that are quite active in London at the moment accept that some types of investment banking just would not fit in Dublin. They do not have the expertise there to regulate them.

Q33 **Lord Butler of Brockwell**: Previous witnesses have emphasised that London financial services are interconnected—it is an ecosystem. It has been suggested that in many ways that is a great asset to the UK, not just to our economy but in this negotiation. It is almost the case that the European businesses are the *demandeurs* that want to continue to get access to this structure for the purpose of raising finance. Do you regard it in that way, and is that likely to be an advantage for us in the negotiations?

Simon Gleeson: That is absolutely right. If you perform the thought experiment of assuming that everything collapses in ruins and Europe decides that it wants to create a rival financial centre to the City of London, is that achievable? The answer is: probably not, precisely because of that ecosystem—an asset manager employs half a dozen portfolio managers; there are 200 skilled people ranging from accountants to consultants to lawyers. The fact that you have a big pool of those to draw on means that that is where you put the business. So the fundamental position that, almost whatever happens, London will remain the financial centre of the continent of Europe precisely because of the depth of that pool is correct. Therefore, it is also correct that that should be an important factor for the European Union in discussing future arrangements.

Another way of looking at it is that when the UK leaves the European Union, the European Union will lose completely any voice in the regulation of its own financial centre. That should be, post-financial crisis, a fairly terrifying position for any government entity to be in. So if everybody behaved in a way that was informed only by adult self-interest, there would be a fairly obvious deal, for want of a better word, to be done, where the UK agrees to co-operate closely with Europe on the regulation of this centre and to ensure that European businesses can continue to access it fully in exchange for ensuring that business is subject to that regulation and servicing firms are allowed to operate freely in the EU. If everybody thought about it rationally and acted in their own interests, that would be a relatively easy deal to do.

Lord Butler of Brockwell: I have the impression that the "if" at the beginning of your sentence is significant. Do you think there is a danger that people will not behave rationally, that politics will get in the way of economic self-interest?

Simon Gleeson: Yes. To be fair, we do not even know whom we are going to be negotiating with.

Peter Snowdon: I agree. I think the risk is that emotion will take over from rational thinking. That has to be a danger for us, I think.

Q34 **Lord Butler of Brockwell**: Are there particular activities which, if London were to lose them, would be particularly damaging? For example, Professor Charlie Bean said last week that he was absolutely certain that we would lose the euro clearing arrangements. I am not absolutely sure what that means because one of our witnesses today said, "Well, you can always clear everything through London". Do you think that that is a danger and would be particularly damaging?

Simon Gleeson: I am afraid that I have to recuse myself on anything to do with euro clearing because of professional commitments.

Peter Snowdon: I think there is a risk there. It is still possible for non-euro institutions to be direct members. If the rules were to change—if euro clearing shifted to the continent—in the future, that would be one risk. There are precedents elsewhere. The other risk is that once the centre of gravity has moved somewhere else, it is possible that firms will follow because it is easier to be wherever it is taking place. I do not think that it would be an overnight phenomenon. As I said earlier, what concerns me about this whole area is that it will be death by 1,000 cuts—one thing moves, something else follows, et cetera; rules get changed and suddenly we find over time that things are much worse from the UK's perspective.

Lord Butler of Brockwell: Are there any other functions like euro clearing that you regard as particularly vulnerable?

Simon Gleeson: There is an issue about how much anybody cares. The point is occasionally made that if you look at the euro bond market that exists almost exclusively in London, the two clearing entities for that market are located in Luxembourg and Belgium respectively and that has absolutely no impact on the fact that trading, settlement and all the rest of it happens here. So it is not necessarily the case that the movement of infrastructure or trading venues has any impact at all on the broad balance of what is done where.

The Chairman: Lord Lindsay, have we exhausted equivalence?

Earl of Lindsay: We have.

Q35 **The Chairman**: I would like to move on to trade-offs—regulatory equivalence with the EU versus seizing opportunities and staying competitive in other parts of the world. Is that equivalent? Are there likely to be scenarios where opportunities outweigh the challenges or the potential losses?

Peter Snowdon: There are a number of opportunities. They may not necessarily be new market opportunities but there may be ways in which we can adapt regulation, which I will come back to in a moment. From my experience of talking to clients, I do not think that they see the European market and other markets as alternatives; they are different arms of their businesses. Some focus more on non-European business, some focus more on European business. They are not necessarily alternatives. There will be opportunities in some areas and there will be possibilities at home to be more flexible; for example, perhaps with regard to capital requirements on challenger banks. It is an area that could be explored. There are certain pitfalls in doing that, but there are also possibilities. There are similar ones in other areas. The United States, for example, takes a different prudential approach to international banks from its approach to purely domestic banks, and there may be similar opportunities in other areas here as well.

Simon Gleeson: I would say two things in response to your question. First, many of the banks that I have talked to have a real fear of a policy of deregulation in the UK. The idea of the UK becoming a lightly regulated offshore centre would, they feel, be the kiss of death to their business. The industry is in the slightly unusual position of wanting to ensure that

UK regulation remains as vigorous and as credible as possible on an international level.

Interestingly, there are certainly areas where there is a strong view in the UK that the European regulatory authorities have got it wrong. There is one that occurs from time to time: the extraordinarily rigid approach that the European banking authority has taken to the "skin in the game" retention rules surrounding securitisations has, to a large extent, strangled the European securitisation market. As you will have seen in the Capital Markets Union papers, there is a generally held view that encouraging the development of securitisation is an important mechanism for reducing the cost of funding and capital to industry. In that area, you could undoubtedly create a consensus within the UK regulatory establishment that this should be done differently, but you would then run into the fact that, if you did that, the resulting securitisations would not be capable of being sold to European investors. The question then becomes, "Is that game worth that candle?".

I think that there are very few areas where what would be regarded as a change in regulation intended to improve outcomes would not have compensating negative impacts on the saleability of the resulting products. That balancing act is a very hard one. There are certainly no visible easy wins that I am aware of.

Q36 **The Chairman**: Moving briefly to transitional arrangements, once we know the terms of the deal, in terms of your sector what sort of period and what arrangements would you wish to see on a wish list before there was a final break?

Peter Snowdon: I caught the tail end of the last session and I would agree with what was said there. The idea that this could all be done in two years is not really feasible. In terms of how long it would take, my view is that a transitional arrangement to cover everything could take 10 years.

The Chairman: That is really helpful. Mr Gleeson.

Simon Gleeson: There is a general rule of thumb that it would take two years to move a significant part of the business of an investment bank. In a perfect world, the industry would be able to look at the final agreement made between the EU and the UK and decide on the basis of knowledge of that agreement how it wanted to restructure itself. The way that we think about it is that in a perfect world we would have a transitional period of at least two years after the reaching of the final terms of the agreement.

The Chairman: In terms of regulatory certainty and stability in the short to medium term, what would you want to hear from government?

Simon Gleeson: In a perfect world, we would have a joint declaration from the UK Government and the European Commission that there would be a transitional period after the end of the agreement. The problem we have is that, given that two-year rule of thumb period, in the absence of any reassurance at all a rational bank should start moving its business on the day that the Article 50 notice is signed. That is an entirely irrational way to run the world but, if there were nothing at all for bank managements to go on, they would be really derelict in their duty as stewards of the companies if they did not start at least planning for that. If somebody tells you, "We've started a two-year period", you have to work within that.

The Chairman: Would you agree, Mr Snowdon?

Peter Snowdon: I would. You just do not have the time to do it at the end of that period.

The Chairman: So you think that there should be a joint declaration.

Peter Snowdon: Yes, I do.

The Chairman: And is that a conversation that you are aware that the Vadera group or your own institutions have had with senior Ministers?

Peter Snowdon: I am not aware of that.

Simon Gleeson: Practically every senior leader within the industry thinks that there should be a discussion about the desirability of an interim period, but I do not think that anybody has a strong opinion on what the views of Ministers might be.

Lord Haskins: What concerns me about all this is that you and previous witnesses have talked about their clients. I run a local enterprise partnership in Yorkshire. I already have potential investors from outside quietly—without saying anything—stopping and going somewhere else. The danger is that we spend a whole lot of time trying to protect the financial sector when the financial sector's customers have made up their own minds about where they are going to go. The Government have to make sure that they understand what your clients think. That is almost your biggest job: to explain to government what your clients are likely to think.

Peter Snowdon: That must be right—I would certainly agree with that. It is this lack of certainty that is the key risk.

Lord Haskins: And they can do it just like that.

Peter Snowdon: Yes.

Q37 **Lord Butler of Brockwell**: Are there any pluses that you see for the UK in regaining its independence from the EU as a regulatory power and reaching agreements with other regimes, free of the EU, that would be advantageous for British financial business?

Simon Gleeson: Broadly, no. You will have seen the note from the Japanese recently explaining their views, but the vast majority of non-UK

Governments perceive this as a source of risk for their institutions. The opportunity—this is something that has been floating around for a very long time now—is for closer co-operation with the United States. The United States has always taken the view that it has a high level of confidence in the UK authorities as regulators but, because the UK operated within the European Union context, the EU took the view that the United States had to deal at the EU and not the UK level. The US position, in saloon bar terms, was, "We'll recognise the PRA as equivalent but we certainly won't recognise the Bulgarian equivalent".

That constraint has gone away, so in theory it is now possible for the UK and the US authorities to co-operate much more closely than they have in the past and to develop substitute compliance and other approaches. The extent to which that might be considered to be exchanging a veto from Brussels with a veto from Washington is one of the things that would have to be discussed. But that is the major opportunity, I think.

Lord Butler of Brockwell: And do you see the possibility of material advantages from that?

Simon Gleeson: I am tempted to say rather cattily that US international co-operation has always been heavily to the benefit of US firms.

Peter Snowdon: I think that that is right. I cannot see enormous opportunities there. To come back to a point raised earlier, we have regulators with very strong reputations internationally and they are very active in the supranational bodies as well. Arguably, those will become more important, because if you can make much tighter policy at that sort of level, that may help prevent some of the risks that Simon outlined earlier—that the EU goes off on some sort of frolic in new regulation without the UK there to dampen its enthusiasm. So those supranational bodies become much more important for the UK.

Lord Butler of Brockwell: Thank you.

Lord Haskins: It is becoming clearer that the Norwegian, Swiss and WTO options are being parked. I think that that is probably the case and therefore we are talking about a bespoke option for the UK. What do you think are the non-negotiable issues for a UK Government going into a bespoke deal as far as financial services are concerned?

Simon Gleeson: The core non-negotiable issue for the UK would have to be the retention of ultimate regulatory independence. This really goes to systemic risk as much as anything else. For as long as the UK remains the base for the European financial services sector, it will be much more exposed than any other Government, in relative terms, to the way in which that sector is regulated. I would expect the UK Government to take the view that they would be prepared to agree to try to co-operate to the greatest extent possible, but they would have to retain, if you like, a right to regulate unilaterally just on the basis of their significantly greater exposure to systemic risks resulting from the fact that they were the home of that market. But beyond that restraint the UK has a very strong commitment to the idea that regulation should be global and relatively coherent from jurisdiction to jurisdiction, and that enforcement and supervision should be as seamless as possible. All those should be common aims between both sides. So I think that there are fewer red lines than agreed starting points.

Peter Snowdon: I agree with that. I think that systemic risk is key. If we go back a few years and remember the Icelandic banks, in a world where we were not within the EU we would want to be able to do a lot more about that than perhaps we could initially.

Lord Haskins: So you are saying that on the one hand we must retain our regulatory independence but, at the same time, the regulatory regime that has emerged over the last 10 years should remain in place and nothing changes.

Simon Gleeson: Yes. To be fair, that regime in Europe was largely written by the UK anyway, so it should not be a surprise that we are in favour of its continuation.

The Chairman: Are there any other questions from members of the Committee? If you have any other views, you know that we would welcome any written follow-up thoughts. Thank you very much indeed. That concludes today’s public evidence sessions. The Committee will now continue its meeting in private.