

Select Committee on the European Union

Justice Sub-Committee

Corrected oral evidence

Brexit: Consumer Protection Rights

Tuesday 10 October 2017

10.45 am

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Members present: Lord Cromwell (The Chairman); Lord Cashman; Earl of Kinnoull; Baroness Neuberger; Baroness Shackleton of Belgravia.

Evidence Session No. 5

Heard in Public

Questions 40 - 49

Witness

[\[\]](#): Mr Chris Woolard, Executive Director of Strategy and Competition, the Financial Conduct Authority.

USE OF THE TRANSCRIPT

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

Examination of Witness

Mr Chris Woolard.

- Q40 **The Chairman:** Good morning. Thank you very much for coming. Before we kick off with questions I should say that this session is going out live as a webcast and will be available on the internet after that. You will get a transcript of the session. If you want to correct, amend or add anything to it that you think might be helpful to the Committee, please do not be shy about contacting us. That is all the housekeeping.
- First, for the benefit particularly of those looking in on this session, would you first introduce yourself? I do not know whether you would also like to make an initial statement of any kind or whether we can go straight to the questions.

Mr Chris Woolard: Thank you very much, Lord Chairman. I am executive director of strategy and competition at the Financial Conduct Authority, and I am an executive member of our board. If you are happy to go to questions, perhaps I might first paint a little more of the scenery rather than make a standalone opening statement. That might be the most useful thing to do.

- Q41 **The Chairman:** In that case, let us make good use of your time by diving straight in with the first question, which is essentially a scene setter, as you rightly say. Can you describe, particularly for those looking in, the role of the FCA in protecting consumers both here and across the single market? In particular, given that this is the EU Justice Committee, how does that work in with the EU and the legislation?

Mr Chris Woolard: Perhaps I may take the questions in that order and say a little first about what we do and how that plays across the single market. Then I will say something about the legal and regulatory underpinnings of some of that.

In the UK, we are the regulator for around 56,000 financial services firms, ranging from the very largest banks all the way down to single independent financial advisers. We are the conduct regulator across all those. We also provide prudential regulation for firms that are not covered by the PRA and the Bank of England. We are the prudential regulator for more than 18,000 of these businesses¹.

We have a number of functions. We authorise firms, so we set a gateway for allowing firms into that system. We supervise their day-to-day conduct and have a scaled and proportionate approach, depending on the size the firm. We set policy and standards within the duties that Parliament has given us to undertake. We have an enforcement arm and will take enforcement action against those who breach our rules, which are a mixture of criminal and civil standards. Somewhat unusually for financial regulators around the world, we also have a competition duty. So alongside duties to consumers and to market integrity, we have a duty to promote competition in the interests of consumers and to try to ensure that markets are working well.

The Chairman: Can I stop you there for a moment? We had the CMA in at an earlier

¹ Not all consumer credit firms have prudential requirements on them

session. Can you explain the overlap or the intersection between you and the Competition and Markets Authority?

Mr Chris Woolard: We have what are called concurrent powers with the CMA, which means largely that we can duplicate its functions but only in relation to financial services. Obviously the CMA covers the whole market. It is a very similar set-up to other sectoral regulators such as Ofcom or Ofgem, which have similar powers. Day to day, practically, we work in close co-ordination with the CMA about who will take particular cases, depending on who is best placed and has the resources at the time to deal with them. That is what we do.

On the question of our role in protecting consumers across the EU single market, we obviously protect consumers here in the UK. We also essentially act as the home regulator for 6,000 UK-based firms that passport across to Europe. In general, where there are issues concerning those firms, we will be the first port of call to deal with them. There is obviously a reciprocal arrangement in place with the other EU 27 regulators that deal with the 8,000 firms that passport into the UK.

The EU framework provides us with a broad framework for dealing with a number of the issues that we are talking about here. For example, we have MiFID I and now II—the markets in financial instruments directives—governing quite a lot of the space that we deal with. We have a number of other things, such as the consumer credit directive, which, again, tries to set a pan-European approach to dealing with the giving of credit to consumers.

It is also worth saying that it is a pretty well-blended system. If we take consumer credit as an example, the European regime will deal with the grant of credit—the moment of giving pre-contract information about how an assessment is made of creditworthiness itself. It also establishes some basic consumer rights in relation to things such as withdrawal from the contract. UK law sits over that process and supplements it with a number of things to do with how the process of termination and the enforcement of loans actually work, and how our own conduct rules apply to firms offering credit. The landscape is quite complex and interconnected when we look at it from that perspective.

The Chairman: Just to clarify again for those listening, obviously our focus in this Committee is consumer rights, but in relation to the credit and so forth that you have spoken to, is a consumer defined literally as an individual, a sole trader or an SME? Where does the roof come in on your responsibilities?

Mr Chris Woolard: Under the Financial Services and Markets Act—the UK legislation that sets this up—“consumers” has a very broad definition that includes businesses making use of financial services in certain cases. It depends on the exact circumstances that we talk about, and we may get into that as we go on. On the whole, consumers tend to be defined in most of the things that we do as ordinary individual citizens or micro-businesses—very small businesses. There are certain circumstances in which slightly larger SMEs than those kinds of firms also come into the net. On the whole, when we talk about our regulatory perimeter, business-to-

business transactions are not inside it, but the line is quite fluid, so we might have to get into some of the detail on that.

The Chairman: Thank you. I interrupted you, so please go on.

Mr Chris Woolard: The only final point I was going to make is that, as I said, we have this rather blended landscape when it comes to consumer protection. European regulation provides a degree of baseline, and UK legislation usually sits alongside that to give us a deeper sense of what consumer protection is required.

Finally, I come back to the issue of how we work with other regulators across Europe. In financial services a number of pan-European bodies have been established, the so-called ESAs—the European supervisory authorities—which deal with a number of things, including banking and the sale of securities, and try to provide a degree of consistency across member states. But, for the most part, regulation still sits with member state entities. BaFin is our opposite number in Germany, and so forth. We work pretty closely with all the other 27 member states' home regulators.

Q42 **The Chairman:** Could you help us with a couple of specific examples of where the FCA has made a difference in improving the protection rights of EU consumers?

Mr Chris Woolard: Historically we have worked very closely with the Commission and other European bodies as they have developed new legislation. Many of the concepts that have found their way into the European-level directives are familiar to us in UK law. One example is the insurance distribution directive, which is relatively recent. That brings in concepts that have existed in FCA regulation for some time, such as contracts being fair, clear and not misleading.

We try in a number of places to make arguments from a technical perspective on what we think works. Historically, on the whole, we have seen that adopted fairly widely.

Q43 **Lord Cashman:** Thank you for coming to see us and for outlining what the FCA does. You talked about protecting consumers here in the UK, passporting across Europe, about which there have been question marks, working in conjunction with the 27 other EU regulators, and the wide body of EU law that has been built up. To what extent does Brexit pose a danger, or not, to the FCA's ability to protect UK consumers here and, once we leave, consumers who continue to operate within the EU single market?

Mr Chris Woolard: In thinking about that question it is worth saying that at least the stated intention of the EU withdrawal Bill is to transfer EU legislation into UK law. Essentially, in the parlance of the Bill, the idea is to onshore the protections that UK consumers have today, so in theory it should not open up any further risk to UK consumers than might exist today.

However, it is worth thinking about where that question leads us to. Does it open up any additional risks for UK consumers? There are a number of issues there that

we need to play close attention to. The nature of the agreement reached by the Government will be critical to determining the level of concern that we might have about this.

In particular, how does the continuity of consumer contracts work post Brexit? In the insurance market, many people in the UK will take car or home insurance with a UK-branded insurer, but that risk will be reinsured, possibly with an insurer based elsewhere in Europe. This can often be in places such as Gibraltar, but it can also be in eastern Europe. We need to make sure that those contracts are effective and work either side of an exit date. There are questions about consumer understanding for those who continue to operate within an EU market. There are also some practical issues, such as access to home-state compensation schemes for firms that still operate in the UK.

There is quite a lot of detail that we need to work through to make sure that consumers can function effectively post Brexit. On the issue of other authorities, we see it as essential, whatever the nature of the settlement that is reached, still to have very strong relationships in place between us and our fellow regulators in Europe, just as we co-operate now with a range of third-country authorities such as in the US, Australia and Singapore.

Lord Cashman: We have been offered that same example of what we now term third countries, such as the US. Of course, the difference at the moment is that we have dispute resolution and, finally, recourse to the European Court of Justice. We do not have that with those third countries. How would you get around that if we have consumers, in the broadest definition, and businesses operating within a single market that we are no longer a part of? How can you offer them that security and protection within the 27 countries operating in that market?

Mr Chris Woolard: We have said on the record to the Treasury Select Committee, and just over two weeks ago so too has the FPC, that the only way to mitigate these risks completely is to have some form of bilateral agreement between the UK and Europe at the end of wherever we reach. That is obviously a matter for the Government rather than the individual regulators. The only thing I would say in practical terms is that we already have a range of co-operation agreements with third countries outside the EU that are designed to deal with some of these issues. General consumer contract law will ultimately depend on the settlement reached by the Government with the EU.

Q44 **Lord Cashman:** Following on from that—you may feel you have already answered this—are there particularly important aspects of the EU regulatory framework for financial services and consumer protection that the FCA would wish to see retained when the UK leaves? Conversely, are there any negative aspects that you would love to see the back of?

Mr Chris Woolard: There are three things to say, one of which I have said already, so I will mention it only briefly again. At the moment, we understand the Government's intention to be, in effect, to onshore the existing framework as it

stands today. The majority of EU regulation of financial services, if it did not exist, we would want to have anyway in one form or another.

Clearly, when that is developed in the context of 28 member states, there will be individual legislation that we might tailor for the UK in a very different way, but the fundamental underlying principle would probably be the same for much of it. There are two reasons for this. First, financial regulation operates in a global system, and many of the principles in EU law are replicated in bodies such as the FSB or IOSCO, which provide an international framework around this space. It is quite hard to see why we would want to diverge significantly from that international context anyway. Also, even in a post-Brexit world you would want some version of products such as the UCITS framework—a pan-European initiative—to be available to UK consumers. There are reasons why that framework would still work for us.

There are, of course, occasional moments when we look at it and say that we would not have done it quite that way. A nice example is the consumer credit directive. The system of APRs was brought in in a way that is entirely intended to give consumers comparability across credit products. It is done, for the very best of reasons, on a standardised basis, yet it prevents us from doing some fairly simple, common-sense things such as telling people up front about the cost of interest in pounds and pence, which from a consumer-protection perspective we would like to do.

It is not a completely positive canvas. Nevertheless, we would want to see some version of the vast majority of current legislation in UK law.

Q45 The Earl of Kinnoull: I wonder if we can move to consider evidence given to us by Which? in April. It said: “certain parts of the financial services industry ... may want to use Brexit as an opportunity” to diverge from EU consumer protection standards. My first question is: what is your immediate response to that concern?

Mr Chris Woolard: I have heard a few people express a similar sentiment.

The Earl of Kinnoull: In which industry sectors?

Mr Chris Woolard: I do not think you can single out particular sectors; you just hear that sort of sentiment expressed occasionally.

The Earl of Kinnoull: But if you have heard it, you must know from where you have heard it.

Mr Chris Woolard: I just meant that it is not said particularly in, for example, banking, asset management or insurance. Occasionally you will hear individuals in any part of the financial sector saying something along those lines. But I would also say this: I do not think that the vast majority of people we regulate have that view, for a very good reason. We certainly believe that the future competitiveness of the UK in financial services will depend on having high standards.

This goes back to the point I mentioned earlier in response to the last question: that on the whole we are dealing here with international principles and international money flows. So whether you are in New York, Hong Kong or London you would expect to deal with a set of regulatory standards that try to set quite a high bar. Indeed, money probably flows towards that. The vast majority of firms that we deal with share the view that some bonfire of regulations will be in no one's interest in a post-Brexit world.

The Earl of Kinnoull: But if you were to gather in a room a lot of people who regulate and ask them to have a chat, a common theme would be that of gold-plating, which is very often said of the FCA. You have referred in your earlier answers to the UK going into deeper law making and about how the insurance distribution directive was playing catch up with where the UK had already been. You then said that various countries may tailor very differently the way in which regulations then interpret international law. All that suggests, I think, that gold-plating is alive and well. Do you agree?

Mr Chris Woolard: I think we have to be quite careful about what we mean by gold-plating. Let us take the insurance distribution directive as a good example. I do not think the fact that a number of concepts that are already in UK regulation have been adopted on a pan-European level is gold-plating at all. I think that is European policymakers looking for a model and saying, "The UK one looks quite good. Let's adopt quite a lot of that". That is almost the reverse of gold-plating, I suppose.

However, there will be occasions, when you take directives and put them into UK law, when they do not quite work in a domestic setting. MiFID and IDD are written from a European perspective and are the way the majority of European countries tend to deal with insurance and investment products, which is to see them as quite different things. In the UK, it is perfectly possible to buy the same underlying assets just in an insurance wrapper or in a collective investment scheme wrapper. It is really the tax treatment that drives people to think about which way they go on those things.

In those instances, we do not want regulatory arbitrage. We would be simply, by nature of the wrapper, which is nothing more than a legal document sitting around a bunch of assets, treating one investment in one set of assets differently from another. So we end up doing a piece of reconciliation between those two directives, which would otherwise take the UK market and what goes on in it and split it into slightly different pathways. You can debate whether that is gold-plating or not. It certainly does something slightly different from the directive rather than straight copy out. Going for straight copy out would not make an enormous amount of sense in the UK context, given the firms that operate here today.

Finally, I gave the example earlier of the consumer credit directive. That directive establishes a baseline. Previous Acts of Parliament and subsequent Acts of Parliament have essentially added to that in primary legislation. We take the pair of

them and regulate against that baseline. We do not introduce new requirements over and above what has been legislated for in that instance.

The Earl of Kinnoull: I suppose I was trying to work you around to suggesting that we are in a curious position in which the UK is significantly more regulated in most of the products that you are talking about, and we are talking about very simple products such as straight non-life insurance products. The cost of regulation for intermediaries is charged back to the intermediaries by you, and in this country that cost is more than twice what it is in Ireland and considerably more than it is in France and Germany. Those figures came from the LSE. That suggests that the real answer to the question I have started asking is that we are already at a much higher level, so even if we eased off the gas a bit, our consumers domestically would be in a better position than EU consumers, because you have done such a comprehensive job at regulating.

Mr Chris Woolard: That is one way of putting it.

The Chairman: Is that damning with faint praise?

Mr Chris Woolard: I think it is, yes.

It rather depends on the circumstances that we talk about for some products. The first thing worth remembering is that, depending on the exact product that we are talking about, upwards of 70% of the European market is written here in the UK. So when we talk about those standards applying, they are applying to a very large amount of the flow of European business as a whole. That is largely here in London but sometimes in other parts of the UK as well. In part, we would contend that people choose to put that business here in the UK in the first place because it is a well-regulated environment.

You can get into quite dangerous comparisons between different markets and different products. The reality is that the domestic insurance market in Germany is structured completely differently from the way insurance is bought and sold in the UK. I have seen comparisons made—indeed, I think you have made comparisons—such as certain things being 14 times more expensive to regulate in the UK than they are in Germany. I know that that example came from a pretty respectable trade association, which had worked those numbers out, but the apples for apples comparison is not there; that product does not exist in the German market. So we have to be a little careful about talking about the relative cost of regulation.

The reality is that whether it is us as a regulator deciding to do it, or frankly Parliament here deciding to do it, there has been a history of occasionally putting in higher standards of protection, such as in relation to financial services compensation, than would be the norm or the minimum in other European countries. Whether that is a good or bad thing is for this place to decide, perhaps, rather than for the regulator.

The Earl of Kinnoull: That is a very helpful answer. Thank you.

Q46 Baroness Neuberger: We have had quite a lot of evidence from other witnesses who are concerned that the Government do not seem to be as aware as they should be of just how important consumer protection issues are in the EU and how we get an enormous amount of consumer protection through our membership of the EU. Given the EU's central role in promoting and legislating in this area, are you concerned that the issue has so far not appeared in any detail in the Government's Brexit plans? If you are concerned, would you do anything about it?

Mr Chris Woolard: First, in financial services, not in general, many of the retail markets that we are most concerned with, such as mortgages and retail banking, tend to be subject to largely domestic regulation. Wholesale markets tend to be much more integrated at the European level.

That said, though, and I certainly would not want to underplay the scale of the task that we face here, we are working very closely to provide the Government, particularly the Treasury, with advice on the technicalities and the line-by-line analysis. So as the process of onshoring occurs, where are there protections for consumers in the European regime in relation to financial services that we would want to see coming onshore post Brexit? Certainly in what we see so far from the Government's approach, most of that is a given. Quite a lot of it has already had some other kind of enactment in UK primary legislation. As I said, I am not trying to underestimate this task at all, but where financial services are concerned we are in a reasonably good place at the moment in making sure that the protections that exist today for consumers will exist the other side of Brexit.

Baroness Neuberger: So it is less of an issue for financial markets but may be an issue more widely.

Mr Chris Woolard: Yes. Clearly there is a body of European law that deals with things like alternative dispute resolution, the kind of things that apply very generally as consumer protection principles. I know that you have spoken to the CMA in previous evidence, as the Lord Chairman said. Parts of the regulatory system are looking at that very closely. We are in a reasonably good place on the specifics of financial services protection, but I certainly would not want to sound overconfident about it or underestimating the scale of the task.

Baroness Shackleton of Belgravia: Are you worried about enforcement, and where they enforce?

Mr Chris Woolard: In terms of our own enforcement, much of—

Baroness Shackleton of Belgravia: I suppose it is business as usual.

Mr Chris Woolard: Much of our "business as usual" relies on UK legislation for those powers rather than on European powers. There is a slightly bigger set of questions about the full range of enforcement, whether it is enforcement on competition law, securities law or straight criminal law. Some of it is underpinned by European-level arrangements, particularly competition law, but an awful lot of it is essentially already dealt with bilaterally, between us and other regulators operating in Europe

or elsewhere in the world. It is a bit of a mixed picture, but we are reasonably confident that a lot of the arrangements in place at the moment do not ultimately rely on European underpinning to be successful.

But in certain places—for example in ESMA, the European-level securities regulator—approaches are being discussed at the moment on things like contracts for difference, where we see some significant issues in the market. Were there to be European-level action in that space, we would absolutely want that still to be part of the UK regime in a post-Brexit scenario.

Lord Cashman: This might be absolute nonsense, but what about the scenario, post Brexit, in which we want to attract business here and get to a situation where we decide to offer lower protections, so that more businesses locate here in order to sell? I am going back to the idea that has been floated of us being the offshore tax haven of Europe. What is the likelihood of that scenario, and how would it affect our products internationally?

Mr Chris Woolard: That is quite a tough hypothetical to talk about. It would depend on the exact circumstances of the Government of the day and their decisions. I would take you back to the answer I gave earlier: we are talking about an international system here in which the majority of business is done in pretty tough enforcement jurisdictions—for good reason, because essentially the firms conducting financial business understand the rule of law.

There is enough history, whether in the US, here or in other jurisdictions, of what looked like a great plan to deregulate in certain circumstances coming back to bite people 10 years later when the compensation scheme kicks in. This is a system of international standards, where ultimately money tends to have a flight to quality, if we look at where the investment really goes in. The phrase “Singapore-on-Thames” gets used a lot—the idea of being an offshore tax haven. Clearly, the Singaporean authorities have an approach to attracting international business. What I would observe from dealing with their regulators is that the system of regulation itself is pretty much of the same standard as you would find in Hong Kong, Australia or the US—or here. Of course, there are different nuances in the different systems, but I do not think that any really established financial services regulator around the world would argue that having a low standard of consumer protection is a good way to have a solid basis for an industry to go forward from.

The Earl of Kinnoull: You have more or less put my salmon on the bank, and I agree with your logic totally. I was simply going to say that in the jurisdictions I know well, Bermuda and the Channel Islands, the regulatory environment is very similar to how it is here, is it not?

Mr Chris Woolard: Given how much of their rulebook looks, probably yes, although I cannot say a lot about day-to-day practice.

The Earl of Kinnoull: The point is that you could not, in fact, operate a successful financial services centre with a weak regulator. There are no examples in the world

today of that dynamic.

Mr Chris Woolard: Areas that are outside most regulation, such as Bitcoin exchanges, are perhaps attracted to environments that differ somewhat from mainstream financial services regulation. But on the whole you can observe that major, successful financial centres come with the regulation that tends to meet an international norm.

The Chairman: Related to that, and I suspect to the question that Baroness Shackleton wants to put, you mentioned the need for bilateral agreements, and there will obviously have to be some. Do you have any evidence that those are actually being negotiated or worked on now? If not, does that cause disquiet, or are you quite relaxed about it?

Mr Chris Woolard: Our role in this is to provide technical advice to the Treasury and the Government. We are not on the front line of negotiating, which is obviously quite proper. We have tried to be as clear as possible about the conditions that we think will be needed to operate in an optimal environment in a post-Brexit scenario. I will say a bit more about that in a moment, if that would be helpful.

Our evidence so far comes from working quite closely at a technical level with the Treasury to prepare for the European Union (Withdrawal) Bill and the process that will be required to reach any agreements on onshoring. Beyond that, we all read the newspapers and can all see where the negotiations are at this time. It is very clear that there are still big issues on the table, beyond financial services agreements, that need to be cleared off first or dealt with in some way. But yes, the more certainty we can have about the transitional periods or what the future landscape might look like, at least in a heads of terms way, the easier it will be for everyone involved to plan for what that scenario looks like.

The Chairman: Absolutely. I am sure many of us would like to know a lot more about what is going on in the negotiations, but there is an “I can’t tell you now” scenario, which is entirely understandable. To press you a little further, is it your impression that the Treasury is working up such heads of terms to be fed into negotiation, or are we not at that stage yet?

Mr Chris Woolard: We are not privy to that, so I could not tell you. There is certainly an enormous amount of work going on between us and the Treasury at a technical level, so people are bending their minds to this task. But clearly a relatively small group of people in the Government are involved in the actual nature of negotiations, and quite rightly so.

Q47 Baroness Shackleton of Belgravia: With your expertise, what advice, if any, would you give to the Government in relation to the Brexit negotiations?

Mr Chris Woolard: I think you have to approach this question with a degree of humility.

The Chairman: Another question: if you ruled the world, what would you do?

Baroness Shackleton of Belgravia: If you ruled the EU?

Mr Chris Woolard: In evidence to the TSC, our organisation has set down five principles that we think are really important here, and I might add a sixth. First, we believe fundamentally that, for market conditions to work well for consumers, open markets provide the best possible outcome. If we want healthy competition, some degree of cross-border market must still occur post exit.

Secondly, as I have said an awful lot, we would support globally consistent standards for our financial services regulation. That is an important part of dealing with markets that are, in themselves, global.

Thirdly, we believe very strongly in the co-operation between regulatory authorities that will need to occur, both member state to member state and UK to pan-European bodies. We think that the best way of achieving that is having a robust framework in place for it to occur in, which means that we can still have continued co-operation.

Baroness Shackleton of Belgravia: So your advice in this respect is: we want reciprocation here.

Mr Chris Woolard: We certainly need a workable arrangement on how we deal with other regulatory bodies day to day. That could include a degree of reciprocity, but it is mainly about how we deal with each other. That bites the most in that, from our perspective, the UK still needs to play a role in driving international standards. Clearly, the forum for us to do that in is more in bodies such as IOSCO and the FSB rather than Europe itself. Built within that is the sense of how you make these cross-border arrangements work in practical terms.

We have also said to the Treasury Select Committee that access to a skilled workforce is still incredibly important for competition in the UK market. Underlying all that is my sixth point, which supports the first point: it is going to be critical for consumer contracts to continue to have a mechanism by which they can work across borders.

Q48 Baroness Shackleton of Belgravia: Following on from that, the Government have promised that it is business as usual, but the national legislation dealing with Brexit, “will preserve the relevant EU (consumer protection) law to ensure domestic law functions properly after exit ... It will help ensure that UK consumers’ rights continue to be robust after we have left the EU”. Do you consider those to be weasel words, in colloquial terms, or do you think that is an accurate prophecy?

Mr Chris Woolard: Broadly, not being a cynic, I think that is quite a sensible approach and what we as a regulator would like to see as a statement of principle.

Baroness Shackleton of Belgravia: That is what you would like to see, but do you think that is what will be delivered if they do what they say they are going to do? That is an ambition, but is it capable of delivery?

Mr Chris Woolard: As an ambition, it is broadly capable of delivery. I will come back in a second to the “but” that is implicit in that. The EU withdrawal Bill, as well as what is planned under it and the technical work we are doing on how that onshoring could work, is a credible and sensible ambition. I hesitated there, because there are certain aspects of this that start to get quite technical and where the act of onshoring will not solve all the problems. For example, at the moment, if you as a UK citizen have purchased a product from a firm that is regulated elsewhere in the EU and it fails, you have a right of access to the compensation scheme of that home-state country. In the same way in which you have access to the Financial Services Compensation Scheme in the UK, you would have access to the equivalent regime in another member state. That would clearly need to be considered in the wider conversation about how consumer contracts would work in future. I am not sure how onshoring can automatically preserve that right. It would have to be in a future negotiation.

It is laudable, and I am certainly not cynical about the intention, but there are practical issues that would need to be solved if that was to be given in its entirety.

The Earl of Kinnoull: You make a very interesting point. Do you have any figures? Roughly how much money a year do UK consumers get out of other states’ equivalents of the Financial Services Compensation Scheme?

Mr Chris Woolard: I am afraid I do not have that off the top of my head. I would be happy to drop you a letter.

The Earl of Kinnoull: If it is £1 million a year for the whole of Britain, it is an interesting point but not terribly serious. If it is £100 million worth of compensation, it is quite a big thing.

Mr Chris Woolard: I would not put it at the higher end of that range, but I do not know accurately what it is. We can definitely write to you on that.

As I said at the start, we have 6,000 that passport out and 8,000 that passport in. At the moment, those arrangements obviously work both ways for those 14,000 firms.

Q49 **Baroness Neuberger:** You have already said that, to a large extent, the UK financial sector is well regulated and is not going to be greatly affected. However, are you concerned that consumer protection standards in the financial sector in the EU 27 will get worse after Brexit? In other words, do you expect our departure from the EU to have any impact on the remaining member states’ adherence to our current consumer protection standards?

Mr Chris Woolard: This is the flipside of the question that Lord Cashman asked earlier: is there a race to the bottom somewhere else in the EU?

The Chairman: Or simply divergence.

Baroness Neuberger: It would not necessarily be worse. It could just be very different and difficult to pull together.

Mr Chris Woolard: On the risk of divergence, although much of this legislation is given its legal force through European directives or regulations, a lot of it starts through international standards and agreements established at a more global level. Very wide divergence is quite an unlikely future scenario if Europe and the UK are adhering to those international norms. A race to the bottom is in no one's interest. It is something that the European-level supervisory authorities have been quite concerned about, and they have said publicly that they want to guard against that risk. The reality and truth of the matter is that we are not going to be at the negotiating table with those 27 other authorities as we are today, so no one can completely guard against the risks you are highlighting.

Baroness Neuberger: And that concerns you?

Mr Chris Woolard: We would clearly not want significant divergence from close trading partners in countries where there is a lot of cross-border co-operation at the moment. As I said earlier, we have good relationships with our fellow regulators. Those relationships have not been particularly tested by the current wider political climate; we are getting on with the job between us. However, I cannot sit here and say there is no risk. There clearly is a risk if we are not at the table with them.

The Chairman: I would like to put in a word myself, if I may. You have given us a very calm and measured view of the lack of disruption likely to happen as a result of Brexit. You have outlined all the reasons, so I will not repeat them. Nonetheless, this is a period of fluidity, change and potential disruption. Without inviting you to ask for a doubling of the FCA budget, a number of bodies which have been in front of us have been very concerned that they are underresourced to fulfil their functions going forward, particularly in the context of Brexit. Is the FCA resourced and up to the job of robustly dealing with the emerging challenges, some of which we are not yet aware of in this process of leaving the European Union? How confident are you that you can tackle what is coming up, or are you very stretched?

Mr Chris Woolard: Just before I answer that last point, I will answer your first. Hopefully, I have been able to set out the picture of us working our way through these challenges and trying to tackle them. I would not want the Committee to go away with the view that we are completely sanguine about the whole thing—far from it. This is a very significant challenge for our organisation and the financial system as a whole. Critically, a number of things that we have talked about depend on the final nature of the agreement reached between the Government and Europe. The worst-case scenario is that it could be quite messy, particularly for firms that are involved in cross-border trade at the moment.

In terms of resources, we started to increase our effort on this topic as part of our business plan last year. We raised our budget slightly to bring on board more legal resource to prepare for the challenge of onshoring and the technical advice needed for that. We will publish our business plan for the following year early next year. It is fair to say that we are going to have to scale up significantly the resource we are spending on the Brexit process. That will place significant demands on us and we

are doing it against a very tight market. If you are a person with policy expertise in Europe or a lawyer who has some background experience you are in very high demand at the moment. Even if we wanted another 100 people—to pluck a number out of the air—going to the market and finding those people would be a hard task in itself.

At the moment, we are largely planning how we prioritise internally very toughly, so we can put the right effort into dealing with Brexit. That is going to be a really significant task for us as an organisation and we should not underestimate it. It will involve some very hard choices. As a regulator, it is constantly suggested to us that there is an issue that we should be tackling, and we often agree. The reality is that we are going to have to work very carefully through the way we deal with new policy challenges. At the same time, we are determined that, as we go through this process, we are not going to take our foot off the pedal on supervision or enforcement and we are going to provide the protection to consumers that we are duty bound to do.

The short version is that it is going to be very tough. We have already started to take some additional resource and to charge the industry that we regulate for doing that. When we look at the numbers, we may find ourselves having to do a similar thing in the coming years, but that is a decision for our board that I will not try to pre-empt. There will also be a lot of very tough prioritisation inside the organisation. It is a huge task, but we are not going to create the people tomorrow.

The Chairman: An ever shorter version of that is that it will be tough and expensive, and some people are going to have to wait for a long time for things to get adapted post Brexit. Is that a fair summary of what you have just said?

Mr Chris Woolard: It is going to be tough and it might be a bit more expensive. The focus will absolutely be on onshoring and how we deal with the adaptations needed to make the transition work. That means that we will have to think very carefully about the order in which we do certain things outside the transitional process.

The Chairman: Finally, it is up to you whether you comment, but that sounds like a tower of work coming towards you. Is the FCA confident, and is morale high that you will be able to manage all this?

Mr Chris Woolard: That is a really good question. If I can speak for my colleagues, we are seized of the scale of the task here. When you look at what the state sector—if you want to call it that—has to do here, we are only one small part of a much bigger machine. There are guys who are doing this work at the moment day in, day out. It is that odd combination of being, on the one hand, monumentally dull—ploughing through things line by line with a huge duty of care—and on the other being hugely important to get right. We are doing everything we can to make sure it is a happy ship and to do the best job we can in difficult circumstances.

The Chairman: Thank you. In navigating that happy ship through the turbulent waters, what have we not asked you that we should have done? Is there anything

you want to leave us with as a final message from the FCA?

Mr Chris Woolard: I do not think there is anything that I expected to say or not say. I am not walking out of the room thinking, "Phew, I'm glad they did not ask that".

The Chairman: Or conversely, "I wish I could retract that".

Mr Chris Woolard: The main thing I would leave you with is a point I have made a number of times here. We sit in a global regime. We want markets in the UK, particularly in London, to work well. That strength will be maintained in the long term and consumers will have a good choice of financial services products if those markets are well regulated and meet international norms. A race to the bottom is ultimately in no one's interest and we are working towards the scenario where, on the other side of this, we still have a financial services system that works well and serves UK consumers.

The Chairman: Thank you very much, and thank you again for your time and for tackling the questions, some of which were more intrusive than others. I reiterate that you will get a transcript. Please do come back to us with any points. Lord Kinnoull asked for some figures. It would be great to have those, and if you want to add anything to the evidence you have given us, please get in touch.

Mr Chris Woolard: Thank you very much, Lord Chairman.