

# Treasury Committee

## Oral evidence: Appointment of Nikhil Rathi as Chief Executive of the Financial Conduct Authority, HC 622

Wednesday 22 July 2020

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Members present: Mel Stride (Chair); Rushanara Ali; Harriett Baldwin; Anthony Browne; Felicity Buchan; Mike Hill; Julie Marson; Alison Thewliss.

Questions 1- 59

Witnesses

I: Nikhil Rathi, Chief Executive, Financial Conduct Authority.



## Examination of witness

Witness: Nikhil Rathi.

Q1 **Chair:** Good afternoon and welcome to the Treasury Committee hearing in respect of the appointment of Nikhil Rathi as the next chief executive officer of the Financial Conduct Authority. Mr Rathi, welcome to the Committee. I wonder if you could briefly introduce yourself, please, for the public record.

**Nikhil Rathi:** My name is Nikhil Rathi. I am the chief executive-designate of the Financial Conduct Authority.

Q2 **Chair:** Thank you, and a very warm welcome to the Committee. Before we get on to matters of policy of the FCA and my colleagues' various questions, the Committee felt it was right for me to ask you some questions in relation to your interest in VLS holdings, which I believe is a limited liability partnership holding a buy-to-let property. We understand that during the selection process you did disclose an interest in buy-to-let properties, although not specifically this particular LLP. For that reason, and because there has been a bit of pickup around it in the media, I wanted to give you an opportunity to answer a few quick questions. In saying that, I should stress to anybody viewing and indeed anybody who subsequently reads the transcript of this session that, by asking these questions, the Committee is in no way whatsoever suggesting anything untoward; we simply want to ask a few quick questions for the reasons I have given. So, having said that, could you let the Committee know a little bit about the history and purpose of VLS Holdings, please?

**Nikhil Rathi:** Thank you. I very much look forward to the hearing and hopefully to a long and constructive engagement with the Treasury Committee in the coming years. I am very happy to answer your questions.

I declared an interest in buy-to-let properties during the appointment process and specifically an interest in buy-to-let mortgages with UK regulated financial services providers, because obviously that was the core conflict of interest. Last June, my wife, mother and I purchased a buy-to-let investment property. As this was involving a family member beyond my wife and me, we felt it important to put it on a formal footing, and we established a partnership between us. We felt that would be a robust way to manage issues with respect to the property and in the future.

A partnership, compared to other forms of ownership, has the benefit of enabling a property to be used for personal reasons, should that be needed, and we had some specific family circumstances which might have made that relevant in the near term. We took advice and established a limited liability partnership named VLS holdings to hold that property. It is



## HOUSE OF COMMONS

a UK partnership and UK resident which files returns with HMRC and is tax transparent.

The declaration of interest I made related to buy-to-let property. The mere fact that I own or purchased a property with my wife and mother, who are closely related and neither of them has any FCA registration or authorisation, is not a conflict of interests. That has been confirmed by the FCA, as well I hope that clarifies things.

**Q3 Chair:** Thank you, that is very helpful. You said you took tax advice in setting up the LLP. Can you tell us a little about whether this was driven by tax advantages, or were the flexibilities to which you referred to do with something non-tax related?

**Nikhil Rathi:** It was about flexibility of use. We needed to make an investment pooling together some family resources, but also for particular family circumstances, have the flexibility to use it for personal use as well.

**Q4 Chair:** Thank you. I have one final question. There are all sorts of ways of holding UK property. For the vast majority of the ways of doing so, HMRC would not challenge any of the structures at all. Can you confirm to the Committee that there is nothing about the arrangements that have been entered into here that you feel HMRC or any reasonable person would have an issue with in any way?

**Nikhil Rathi:** No, these are tax-transparent arrangements. All members of a partnership must file personal tax returns. Obviously, this was in June last year, so the final deadline is next year, and I will file returns in the normal way.

**Q5 Chair:** Thank you very much for those answers. It is good to hear that final answer from you.

Right. You specified in your questionnaire about how you would like to approach your role in the FCA that you wanted to lead a transformative agenda. What I was particularly pleased to see was that you focused both on a more preventative approach to consumer harms, which has certainly been an issue that the Committee has had with the FCA in the past, and on strong and prompt enforcement, which I also very much welcome—that has also been an issue that we have grappled with on this Committee. Could you let us know a bit about how you would intend to meet both of those objectives?

**Nikhil Rathi:** I consciously spoke about the transformation of the FCA in the questionnaire as I believe that agenda is going to be fundamental to delivering all of the FCA's objectives in the coming period. The FCA, as you will know, has an exceptionally broad remit, which has evolved considerably in recent years, with now 60,000 firms under its supervision.

To deliver the FCA's objectives, there are many things that I think are going to be important. First is a strong data and technology strategy, with strong analytics underpinning that. There are a range of challenges and risks across the supervised population, and strong analytical and technological capabilities are going to be fundamental to manage and



## HOUSE OF COMMONS

mitigate those risks. We are never going to be able to have zero failure and prevent all risks, but there, analysis will help.

Secondly—I am sure you have discussed these issues on the Committee—the FCA in the last few months has performed extremely well, through the great professionalism of colleagues pulling together to deliver some extraordinary support for consumers right around the country. There has been strong collaboration across the divisions of the FCA. That culture of collaboration, sharing information and breaking down silos, ensuring that strategic decision making is paramount between supervision, enforcement and competition and policy domains is going to be important. When I talk about cultural change in the organisation, that is what I am focusing on in particular.

Thirdly, and very importantly, is diversity—diversity in all its dimensions. The FCA is dealing with some complex policy problems and diversity of thought is going to be critical to deal with those problems, as well as diversity across all the important dimensions—so progress on the Women in Finance charter and the work that is being done now on black and minority ethnic leadership.

I would also say that the FCA is a national institution. I grew up in the north-west of England. I think it is incredibly important that the FCA reaches out to all the regions and all the nations of the United Kingdom. There is an office in Edinburgh. With the experience of remote working, there is now an opportunity to think creatively about how resources for the FCA and talent for the FCA can come from many more parts of the United Kingdom than historically.

To your point on preventing consumer harms, I would pick up two points. First, I talked about data and analytics and being able to sensitise supervisors to what is going on regarding the risks and getting to them quickly. Secondly, given the split between large firms and small firms, I want to make sure that the best people also want to work on supervising the small firms and not just the big firms. I think that is going to be quite important as well—making that a very high-priority, high-profile part of the work that the FCA does.

**Q6 Chair:** On the diversity point, which is an important issue to the Committee, what do you think the main barriers are at the moment to not already being a more diverse FCA? What are the main components? Can you unpack that for us a little bit?

**Nikhil Rathi:** First, I should say that the FCA, to its credit, under my predecessor, led the way on the Women in Finance charter and set itself more ambitious targets than the threshold set for the rest of the industry. It made considerable progress, and it did likewise on ethnic minority recruitment. I think that there are deep issues in the financial services industry, and I am sure that there are challenges in the FCA as well.

There is an issue in the talent pipeline through the organisation—how talent is attracted in and developed. I believe there will be issues to be



discussed around unconscious bias, and I think the Black Lives Matter movement has really touched a nerve in many organisations, with colleagues beginning to speak much more openly about these issues. Becoming comfortable about having uncomfortable conversations in large organisations is going to be very important in coming months and years to address these issues, as is making sure that talented colleagues have strong mentoring.

I think there could be an intelligent review of recruitment processes as well. I am open-minded about mechanisms such as no-name shortlisting, in which you have the CV but do not have the name on top, for example, to make sure that shortlisting is completely based on merits and qualifications.

**Chair:** That is very helpful.

**Q7 Rushanara Ali:** I have some questions about consumers. You will be very familiar with some of the issues that this Committee, I and others have raised over a number of years, such as Woodford, HBOS Reading, the GRG scandal, the TSB technology failures, mortgage prisoners—this trail of destruction that has affected consumers. You come to the stewardship of the FCA at a time when we have that backdrop.

We also have a series of concerns—not actual concerns, but at the back of our minds—regarding the mortgage holiday that was offered. There is some ambiguity about whether banks will ultimately end up taking it into account in people’s credit ratings just because they applied for a mortgage holiday. That is the backdrop of what I, certainly, am concerned about. I would like to see the FCA taking a very active role in the duty to protect consumers.

The FCA’s candidate brief calls for: “Strong commitment to the aims and objectives of the FCA, capable of balancing the FCA’s statutory objectives at a strategic level, including through a strong consumer focus.” Can you tell us how you will approach this agenda, building on what you have said already, to make sure that our constituents are properly protected, and that prevention happens, rather than our having to constantly bring up the need for consumer protection when screw-ups happen and companies do their worst. I am not talking about the good companies, but about bad practice and what you will do about it.

**Nikhil Rathi:** Thank you for the question and the summary. The consumer protection objectives are at the absolute heart of what the FCA does and will be a major focus during my tenure. I spent some time in the past few weeks since my appointment was announced meeting consumer groups, charities and debt advice groups, such as Christians Against Poverty, the Illegal Money Lending Team and StepChange, which provides debt advice, so that I can understand much more clearly how they deal with issues on the frontline. As soon as circumstances permit, when the social distancing rules are adjusted in the right way, I look forward to doing some work shadowing with those organisations as well.



I will approach your question with a time perspective, looking at the short term and then at the medium term. In the short term—this is one of my major motivations for taking up the role—we are dealing with an extraordinary situation where we have millions of consumers around the country facing very difficult circumstances, and many vulnerable consumers in particular facing challenges. In the short term, the core focus is going to be how to manage the smooth return, hopefully, to normalcy as we come out of the pandemic. Many special measures have been put in place—payment holidays, forbearance and so on—and those will gradually need to be adjusted in a way that takes account of the pressures on consumers. That will mean a very intensive and detailed dialogue with the firms, but also with other parts of the authority, the Treasury and the Bank of England in particular.

**Q8 Rushanara Ali:** Can you specifically address the point about whether people's credit rating will be affected by mortgage holidays in future? What will you do to make sure that that does not happen, because that is not the basis on which people took up mortgage holidays?

**Nikhil Rathi:** I understand that that is an issue and that there is considerable discussion about how to make sure that credit impairment does not result from taking holidays, but also that the integrity of the credit database is retained so that people do not take on unsustainable debt, because, if they have taken holidays, debt will accumulate and they might not be in a position to take on more debt with a new lender. That is a difficult balance to strike. I am not completely on top of all the detail of that. Obviously, I will arrive on 1 October, but it is certainly an issue that I will pay close attention to, and I look forward to it.

**Q9 Rushanara Ali:** I mentioned a number of outstanding cases still to be dealt with. Perhaps that is one to come back to us with, but there are some looming issues coming up—for instance, the housing market and cladding and the need for people to be able to remortgage. It is affecting them because they cannot get the EWS1 certificate, and that means more people will be trapped in mortgages and cannot switch, and then there are the 120,000 people still stuck in mortgage prisons, which has gone on for a long time. Do you think there are systemic issues that need to be looked at? As a newcomer chief exec, is that something you could look at?

One thing that has come up in our discussions with your predecessor is the kind of relationship you will have with the sector and those that you regulate. My question is: if you were to define your leadership style going forward, to get the best outcomes for consumers, do you think you should be someone that those you regulate should fear rather than like? A question that I have asked your predecessor as well is: what is the style of leadership that you think will get the best results for consumers, and how will you approach it so that we can be confident that you will have consumers at the forefront of your mind throughout your leadership and your tenure as the head of the FCA?



## HOUSE OF COMMONS

**Nikhil Rathi:** I should say that I have not applied for this job to be liked. It is not a job where I think you can say you want to be liked. I would not want to define myself as being feared, either. I would like the FCA to be defined as tough, assertive, thoughtful, decisive and working at pace with agility and hyperactivity.

On the point you make about consumers, one of the things that was paused because of the intensity of the work around the pandemic was thinking about how to adjust the principles of business of the FCA to build in a stronger consumer duty. That is a debate that has been going on with consumer groups, and I would like to see how we can return to that earlier rather than later, as the economy returns to normal and as normal service resumes. I think that will send a very strong message to the industry about the importance we are attaching to treating customers fairly and making sure that consumers understand the decisions they are making.

I would also say that the senior managers regime has just been rolled out, at the end of last year, to what is now, I think, 48,000 firms in the FCA's population. That puts responsibility right at the heart of the way in which firms must act, and responsibility at the senior management level. It is early days, but I would certainly expect us to be holding firms to account with respect to the conduct that is expected from the senior managers regime.

Thirdly, I think there is an important agenda of work around vulnerable consumers. The FCA has done some very good work in this area in recent years, but I think that it may well be the case that, coming through this crisis, the definition of vulnerability and the scale of vulnerability has changed. That is something that we will have to look at very closely as well.

There are the specific mortgage issues that you mentioned around cladding and mortgage prisoners. On cladding, I am sorry, but I am not familiar with the details; obviously, however, I can look at them. I have read about cladding in the media, in terms of the work that the Ministry of Housing, Communities and Local Government has been doing on this, in trying to find a way to make sure that people can mortgage. I need to look at what the FCA's locus on that issue may be. And on mortgage prisoners, I know that there has been some progress with respect to affordability tests and enabling consumers to understand that they can switch. However, there remain some issues to resolve, particularly the take-up by banks of the new affordability freedoms that the FCA has put in place, and I will look to take that as a priority, recognising also that there are some Treasury dimensions to this issue as well.

Q10 **Felicity Buchan:** My questions follow on from Rushanara's and are specifically about vulnerable customers. Let me ask you this, first of all: do you think it is important that all customers should have access to a physical bank branch?

**Nikhil Rathi:** The access to branches issue is a very important one. I think that vulnerable customers need to have access to the financial

services they need. On the question of access to branches, there needs to be a very sophisticated conversation with banks, with the Post Office and with others to ensure that as decisions are made around branches, they are made in a way that vulnerable consumers' interests are considered, and considered carefully. Whether that means access to a physical branch or a mobile cash service, or access to a post office branch, or—as I know one bank has done recently—providing digital tools, such as Ipads, for some of the vulnerable consumers, there are different ways of doing it.

One of the things that is interesting about the crisis is that, as I understand it, shared services are becoming easier to talk about among the different institutions as well, when they had to think about how they might have to cope if a number of branches had to close during the pandemic. So that may be a solution as well. Yes, access is important.

- Q11 **Felicity Buchan:** If a vulnerable customer does not have access, whether it is to a branch, or a post office, or another physical solution, how do you think that customer can access financial services?

**Nikhil Rathi:** Clearly, that is a challenging question. I know that in some cases cash has been made available, even by post, to enable certain types of consumer to access financial services. And the crisis will have seen a significant acceleration in digital take-up and digital usage. It is not just providing the equipment that is important; the training and the engagement with the equipment is important as well. I would look at those two areas if there are still issues with physical access.

- Q12 **Felicity Buchan:** You have alluded to the fact that the use of cash has clearly plummeted during lockdown. Given the fact that cash is becoming a way smaller component of our economy, how do you retain access to cash for vulnerable consumers, who can be very dependent on cash?

**Nikhil Rathi:** It is a very tricky social issue. I know the Treasury is looking at how they can bring forward legislation in this area, because it is a policy issue that goes beyond purely a regulatory matter. It involves many different actors. I have seen some surveys that show around 17% of consumers worry that they may not be able to use cash in the way they would like to. I don't have a magic answer to your question, I am afraid. These are issues that I will have to—*[Inaudible]*—when I arrive, but you can be assured that vulnerable consumers will be at the heart of how I think about my role at the FCA.

- Q13 **Felicity Buchan:** I have a specific question on compliance with the Equality Act. Our previous Committee—before I joined the Committee and before I was even an MP—did work on this, and they were concerned that financial services companies' compliance with the Equality Act was not being enforced, partly because the Equality and Human Rights Commission did not think it had the experience and the tools to enforce compliance, and partly because the FCA did not seem particularly enthused about picking up the mantle. What is your view about working with the Equality and Human Rights Commission to enforce compliance under the Equality Act?



## HOUSE OF COMMONS

**Nikhil Rathi:** I think there is an MOU that is now in progress and fairly well advanced. That will enhance the co-operation between the FCA and the HRC on these very important issues. Clearly, the FCA is not the expert on all aspects of access to retail services, and there is considerable expertise in the HRC, but it is important that the supervisory arms and the expertise in the HRC join up together.

If I could take this to another level, the FCA has an obligation under its public sector equality duty, and there is scope to look very hard at how the FCA mainstreams that duty with all its supervisory work. One example, which is different from the specific vulnerable consumer example that you are talking about, is access to financial services for certain black and ethnic minority groups. Particularly coming out of the crisis, the levels of insecurity in certain parts of the population are much higher than in other parts of the population. Many of those groups may rely more on access to credit from friends and family than they do on formal financial services, so they may not be on the radar of traditional debt advice and other mechanisms. The FCA needs to think about how those consumers are served as well, and that is part of the rethink of how we approach the implementation of the public sector equality duty.

Q14 **Felicity Buchan:** I have one final, unrelated question. I have been talking to various industry bodies ahead of this session, and one thing that I have heard from a lot of them is that they feel the regulator should have an international competitiveness duty. Do you agree with that?

**Nikhil Rathi:** I believe that the FCA should have high standards that are well enforced and well respected, and it should play a leadership role on international standards. That is how we will ensure that we have a strong, competitive financial market.

Q15 **Felicity Buchan:** But you do not think that you should have that specific objective.

**Nikhil Rathi:** I have never been a massive personal fan of it. I worked for an organisation that used to lobby for it, but I have never personally been a massive fan of it. I do not think it is fundamentally necessary in order to have a strong, successful and dynamic financial sector. I would also say that—in terms of my approach—whatever the objective is, we will have strong, high and internationally consistent standards. That is absolutely fundamental.

Q16 **Harriett Baldwin:** Hello Nikhil. I should declare that you and I have opened the London Stock Exchange together on many, many occasions. I have reviewed your CV and I saw that one of the first things you did was be part of Gordon Brown's euro preparations unit. I also note that in 2007, with exquisite market timing, you moved to the financial stability unit. You left the Treasury in 2014, I think. Can you give the Committee some example, since 2014, of where you have done something that was independent of the tentacles of the Treasury?

I know from the times when we opened the stock exchange together, you really knew how to make sure that you were looking after Government



## HOUSE OF COMMONS

Ministers. I wonder if you can demonstrate that independence from Government that we need from the FCA.

**Nikhil Rathi:** Absolutely. It was always a pleasure to host you, Ms Baldwin, at the exchange. It was always very early in the morning and you were always enthusiastic. I am looking forward to engaging with you in my new capacity.

You are right: in my career I have worked for Ministers across multiple different parties during moments of crisis and in peacetime. I would always give my views openly, honestly and forthrightly, to make sure that the right decisions were made. At the exchange I have worked to build up a number of the international initiatives that have been run there. I delivered very significant regulatory and operational change, and built greater access for retail investors, much of which has been used during the crisis. The vast majority of my role was nothing to do with the Treasury. It was running a large business and running it independently and successfully for the shareholders of that business and the wider stakeholders of the exchange.

As I approach the role at the FCA, what is absolutely fundamental is delivering the objectives that the FCA has and making sure that consumers are protected, we have integrity of markets and we have competition working effectively. That is going to be the sole objective, under the oversight of the FCA board and the scrutiny from the Treasury Committee, which I will focus on. If at any point I have issues where I need to challenge what may be coming out of the Treasury, I would not hesitate to do so. My starting point is to be open and collaborative and have dialogue, but if there are times when I need to call things out, including with this Committee, then I will.

Q17 **Harriett Baldwin:** Can I follow up with a specific question? Since 2014, when you left the Treasury, can you give us some examples of when you think the Treasury has got it wrong in financial services?

**Nikhil Rathi:** Again, I cannot give you precise timetables on this, but the implementation of pension freedoms was perhaps done a little too quickly. It may have been worth spending a little bit more time on that, because it then created a few issues a bit further down the line.

Some of the issues that have now been implemented for—for example, with respect to changing the regulated activities order to enable the authorisation of firms that are approving financial promotions but are unauthorised—could perhaps have happened quite a bit sooner; they are happening right now. There are a couple of examples.

Q18 **Harriett Baldwin:** How would you deal with a situation like that? For example, you mentioned pension freedoms. You are not likely to get a heads-up that this announcement is going to happen, so what stance would you take in your current role—for which we are interviewing you—in that situation?

**Nikhil Rathi:** I think this also links back to the transformation of the FCA and the importance that I attach to strong data, strong analysis and strong intelligence gathering, and having a very powerful radar. Having that evidence base is going to be important when those situations arise and we need to engage a very strong reason why a course of action may not be the appropriate one. I would look to engage with a strong evidence base as needed, but of course if there are issues of concern and I need to go before the Committee and discuss those with you, I will do so.

Q19 **Harriett Baldwin:** And you would be prepared to state publicly that you disagreed, even if you did not have the data?

**Nikhil Rathi:** If there was a set of policies that were being put in place that would undermine the FCA's objectives, I would not hesitate to say that we had an issue with them.

Q20 **Harriett Baldwin:** In the questionnaire that you completed for us, you said that one of the safeguards for independence was the five-year term for the chief executive, but you did not say whether you planned to seek a further term. You will only be 45 when your first five-year term ends, so I wonder what your longer-term career plans are.

**Nikhil Rathi:** I want to do as good a job as I can for the term that I have been appointed for over the next five years. To be honest, I have not thought anything about what happens beyond then. Of course, these appointments are all at the discretion of other parties, including Parliament and Ministers.

Q21 **Harriett Baldwin:** I wonder about the incentives, because, as I say, you will only be 45 and there may be regulated businesses in the private sector that you are interested in joining at the end of your five-year term. I just wondered what you thought about the incentives to you as a regulator in that situation.

**Nikhil Rathi:** The incentives for me in doing this job are to deliver on the agenda that I set out in the questionnaire: the transformation agenda, the delivery of the exit measures out of the pandemic, building the international framework for the UK regulatory system as we leave the transition period by agreement with the European Union, to develop the FCA into an even more competent and mature organisation—it is only seven years old now—and to do that job as well as I can. I am really not thinking about what I might do afterwards. This is the first time I have even had a conversation with anybody about it. To be honest, I have not discussed it with my family; it has been a bit of a whirlwind in the past few months just switching jobs as it is.

Q22 **Harriett Baldwin:** But do you have a view on what the incentives are like for someone as young as yourself in this role?

**Nikhil Rathi:** Maybe I should say a little bit about my background and then you can come to a view about what the incentives are and what motivates me. My parents came here in the 1970s with very limited financial resources and were given a very warm welcome in the United Kingdom. I was very lucky to have a very supportive family, and the one



## HOUSE OF COMMONS

key thing they taught us was to give back to the community. That was what motivated me when I joined the Treasury—it was about public service—and that is what is motivating me now. That is my incentive.

**Q23 Harriett Baldwin:** One final quick question: what is your view of the lifetime ISA?

**Nikhil Rathi:** I should declare an interest: I have one. As far as I can tell, it is a modestly sensible savings intervention for people in that age range. I don't have any strong views on it.

**Harriett Baldwin:** I will quote from what the previous Treasury Committee said about it, noting evidence that it took about "its complexity, its perverse incentives, its lack of complementarity with the pensions saving landscape and its apparent lack of popularity with the industry and pension savers", and calling for it to be abolished. That was the view of the previous Treasury Committee. I share more your point of view on this, but I thought I would stand you out on that.

**Q24 Chair:** Before I go to Mike, on that point, Harriett has mentioned a number of objections that have been raised about the lifetime ISA. Can you speak to that, and tell us whether you agree with them? Where do you land on the points that have been raised?

**Nikhil Rathi:** I know those objections were raised at the time that the policy was introduced. I cannot say that I have a particularly strong view, and I am afraid that I do not know enough of the evidence to give you a view on the complementarity with the pensions framework, either.

On the pensions framework more generally, I think that auto-enrolment has been an incredibly successful policy that has made a big difference to pensions in the United Kingdom. It is not obvious to me that the lifetime ISA on its own is having such a decisive impact that it is undermining the pensions framework in the way that has been suggested, but again, I am not on top of all the evidence.

**Q25 Mike Hill:** You have already answered the question on diversity raised by the Chair in his opening questions, but I would like to drill down a little bit more in that subject area because not only is it important for the workforce to reflect society, it is one of your quoted priorities. It is something that you say you would like to lead on, including in the services industry in general, beyond the FCA. What are your priorities for diversity at the FCA? Could you please enlighten us on how you intend to change things, and could you commit to any early targets that you will try to achieve?

**Nikhil Rathi:** I will be leading on diversity, and I think that is going to be incredibly important. I will also be expecting the entire executive team to be leading on these issues. My priorities relate to people and culture. We touched earlier on the importance of hiring practices and talent reflecting the full diversity of our country and also, very critically, diversity of thought, to make sure we are getting many different perspectives on some of these very complex and difficult policy issues. There is also a cultural

angle to this, in terms of behaviours in any major organisation, which I want to focus on.

Then there is the outward-looking piece, too. The FCA has a role to support a more diverse financial services sector, and this is a conversation that has been evolving in recent years. The Women in Finance Charter is one very important initiative, but I think it is in the interests of the whole industry to consider its leadership and consider whether it is properly reflecting the society it serves. I would have an expectation that over the coming years, the boards and senior leadership of major financial institutions will be working hard on these issues to deliver diversity and change culture. If we are not seeing that progress happening, then at some point it becomes a supervisory matter, and it may even become a matter that we would need to deal with in how we decide whether to approve an appointment or not.

- Q26 **Mike Hill:** Is there anything you would seek to tackle internally—some early targets? For example, the FCA diversity annual report for last year highlights that BAME staff tend to be at associate level, not at management level and above. How quickly can you achieve that kind of change to alter that kind of culture?

**Nikhil Rathi:** I think that, realistically, you are talking about a multi-year journey. These are not changes that happen immediately. There is some important data that has been published on the pay gap. I think the ethnicity pay gap is in the region of 28%. I don't have all the information about how that number has come about, but clearly it needs closely looking at.

There is another important statistic that came out of the report—it was either the one published most recently or the one from the year before—which is that the percentage of people who feel comfortable being themselves at work. I think it was something like 77%. If there is one target that I would like to set myself, it is to make sure that goes up materially.

- Q27 **Mike Hill:** There were some important figures in that report, especially on the gender pay gap and the correlation between BAME workers and median and mean percentage payments, and indeed bonuses. You are right to say that it needs tackling. Those things, as you say, are likely to be long term. Are there any quick fixes that you can look at?

**Nikhil Rathi:** I want to look at recruitment practices. I want to look at the shortlisting process and who is involved in major recruitment decisions. I cannot say yet what the specific measure may be, I am afraid, but I would want to look at that at an early stage.

- Q28 **Mike Hill:** This is my last question. In terms of understanding the wider financial services industry, what do you regard as the key issues for diversity in the wider industry? How do you intend to achieve change there?



**Nikhil Rathi:** Groupthink is a big challenge in financial services. There is sufficient academic evidence of a sufficient calibre now to suggest that where you have diverse leadership teams, you get to better decisions. There is a historical tendency for people to recruit from similar backgrounds to themselves, which creates groupthink. That was definitely a contributor to some of the issues that I saw close up in the 2008-09 financial crisis. I think that has improved, but a responsible supervisor will challenge on those issues.

Q29 **Felicity Buchan:** My questions this time round are on leadership. How would you describe your leadership style?

**Nikhil Rathi:** I hope that those who work for me would describe me as an inspirational leader, leading by example and empowering the senior team to deliver collective objectives.

Q30 **Felicity Buchan:** At the FCA, you will have almost 4,000 employees working for you. It is a very significant role, first, in terms of man management and, secondly, in terms of prominence. What experience do you have of managing such a big organisation? I was having a look at your CV, and you are not currently on the main board of the London Stock Exchange Group. Is that correct?

**Nikhil Rathi:** I have now left the London Stock Exchange Group.

**Felicity Buchan:** Sure, okay. Yes, of course.

**Nikhil Rathi:** I was on the group executive committee of the London Stock Exchange Group for six years, which was the team that led the organisation as it was growing on quite a trajectory to 5,000 people. In that period, I learned a lot about leadership across a global organisation—operations, technology, the disciplines of being in a heavily scrutinised publicly listed environment, and all the change initiatives that we talk about, in terms of building up capabilities in different parts of the world so that we have resilience for our business mode. Of course, the FCA role is significantly different, and I will approach it with humility. I believe that I have built up considerable leadership experience, but I will be drawing on mentorship and advice from others as well. And I will be looking to make sure that we keep the best possible senior team, because one thing that is obvious in the FCA is that you need to have a mechanism whereby the CEO is making the least decisions possible and the team is empowered to make the decisions, because the CEO role is so fixed, with set-piece events and other things, that the capacity to do everything is quite significantly limited. So that focus on the senior team and common endeavour among the senior team is going to be absolutely fundamental.

Q31 **Felicity Buchan:** Just as clarification, in your previous role as chief executive of the UK entity, how many people did you have reporting to you?

**Nikhil Rathi:** I think that, within the entity, there was a headcount of approximately 500. It was a global organisation, so then we would have several hundred colleagues who were not formally in the entity but were



within the operations and technology parts of the organisation and who were effectively working for our business and were very much part of the team as well.

- Q32 **Felicity Buchan:** In your questionnaire, you talk about attracting top talent and making sure that there is a deep bench. Do you think that the bench at the moment is not sufficient?

**Nikhil Rathi:** I would say, first, that there are extremely capable colleagues at the FCA—many, many talented and dedicated colleagues. We have seen that during the crisis, in terms of the pace and creativity of what has been done. But it is also clear, I think, that there will be areas where change will be important and new thinking will add value. I would like to make sure that the FCA is an attractive employer for the best people from the public and private sectors.

One thing about the supervisory framework in the UK in the last 10 years has been that, after the last crisis, the focus was very heavily on banking, prudential regulation and the capital and liquidity leverage framework, and that was right, given the nature of the crisis that we had seen. Actually, we have been on a journey so that now the big issues facing our system are conduct, market supervision and consumers. I think the FCA has a role really front and centre in the UK regulatory framework, in terms of dealing with those issues, and now is the time for the best people, be they from the private sector—if I can use the Committee to do a bit of an advert: if anyone is thinking about it, now is the time for them to make a contribution. I would like to be able to find ways to attract them.

- Q33 **Felicity Buchan:** The Complaints Commissioner has just come out with the annual report. They were critical of how the FCA has been handling complaints. Have you seen that report, and what are your thoughts?

**Nikhil Rathi:** I have seen a summary; I haven't seen the detail. And I am aware that the Chair of the Committee has written to the FCA chairman on this. My initial reaction is that there is clearly work to do there; there is a backlog. There have been improvements, and I believe the team has been bolstered, but there is further to go. I hope that, when I get there, I can look at the specifics of that and contribute to reassuring the Committee.

- Q34 **Felicity Buchan:** Do you have any thoughts at this stage about how you can correct those processes?

**Nikhil Rathi:** I think there has been a question about the quality and the volume of resources that have been applied to complaints in the past. That is one that needs to be looked at closely. Secondly, linked to that, there are the judgments that are being made when complaints are coming through. Are the right judgments being made, at the right level? Those would be two things that I would think about.

I think there is also a cultural point, which is that it is important for all of us in the FCA to understand that, for us to build consumer confidence, consumers need to feel that justice is done when they raise an issue. Therefore, a complaints process is not just a bureaucratic process; it is



part of the delivery of objectives and building consumer confidence in our work.

- Q35 **Felicity Buchan:** That brings me on to something that Andrew Bailey said—that we talk a lot about principles but we write rules. Do you think that the FCA should be guided more by principles, rather than just the letter of the law and the rules?

**Nikhil Rathi:** I have some sympathy with what Andrew shared with the Committee on those topics. I have been in a supervised firm on the receiving end of rule making, and sometimes I questioned whether the rules were delivering the intended objectives. If there is scope to look at the rulebook in a sensible way, so that it becomes more manageable, I would be open to that. However, as I think Andrew said in front of the Committee, the principles need to be enforceable, not just wishy-washy principles where no one has clarity about what they actually mean.

There is also a link to the work on the future of regulation and how the FCA will take on new powers at the end of the transition period. Clearly, much of the patchwork of rule making that impacts the FCA is a combination of EU law and UK law. The nature of EU law, because of the harmonisation across 27 member states, is of quite detailed rules. It is not obvious that that approach necessarily needs to apply in all areas going forward. We can still maintain equivalent high standards, but with something a little bit more tailored for the UK market.

- Q36 **Felicity Buchan:** I have a final question. In November last year, there were rather disturbing revelations about the cleanliness of the FCA headquarters. What are your thoughts on that, and what does it say about the culture of the FCA and the respect of the FCA staff for one another?

**Nikhil Rathi:** First, I talked to FCA colleagues about this. The particular situation we were dealing with was a very small minority of people in the FCA behaving in that way, so I think it is important not to denigrate the entire organisation because of a small minority of people. However, it is important that that behaviour is called out, that there is freedom to speak up and call out that behaviour. The FCA cannot expect high standards of firms if it does not expect high standards of conduct itself—conduct not only of individuals but of the way the organisation deals with issues of concern.

- Q37 **Chair:** I am going to Julie in a minute, but to pick up on one of your answers there, Nikhil, you said that you hoped that people would say that you led by example and were an inspirational leader. What evidence can you give us that you lead by example and are an inspirational leader?

**Nikhil Rathi:** I would say that, in the roles that I have performed in the last 10 years, I have been able to attract—I hope, and as seen in the evidence—very capable talent. One of the most rewarding things for a leader is seeing the talent that you attracted go on to do very good things. Many colleagues came to work under my leadership and have gone on to have very successful careers. When it comes to, say, my role in the



## HOUSE OF COMMONS

Treasury in 2009, financial stability was a bit of a backwater at that time, which I think probably contributed to some of the challenges in the crisis. We worked very hard to make sure that financial stability and systemic risk were front and centre of financial services policy making. I think you can see some of the benefits as a result of that in this crisis, in that the framework that was put in place, which as a leader I contributed heavily to, has actually stood the test of time and has been used quite forthrightly during the last few months.

**Q38 Julie Marson:** Good afternoon, Nikhil. I would like to cover how the FCA deals with economic crime. Perhaps I can start by asking you in general terms what kind of priority that will be for the FCA under your leadership.

**Nikhil Rathi:** If markets are not clean, they are not efficient and eventually market participants lose confidence in them. Therefore, dealing with economic crime is absolutely essential to the FCA's market integrity objective. There are challenges, as I understand it, in how these issues are dealt with at the moment. There are issues across the UK system in terms of the resources allocated to fraud, for example, the complexity of those cases and how many realistically can be taken on and by which actors. There are a number of actors—there is obviously the FCA, but there is the National Economic Crime Centre, the SFO and so on. I do not have an answer to those issues, but I know there are some challenges there which we need to keep working on. As I say, I see this as central to delivering the objective of integrity.

**Q39 Julie Marson:** You have mentioned resources, and you sometimes feel that fraud is a battle you are continually fighting. Do you consider the FCA has enough resources to do what it needs to do?

**Nikhil Rathi:** My general feeling around FCA resources as it stands, right now, coming in—this is very impressionistic, because I have not gone right under the bonnet to understand every allocation—is that the overall envelope of resources is right in terms of financial resources. There is a question around the technology underpinning the organisation and whether it is enabling the organisation to work as productively and efficiently as possible, and then around the prioritisation of resources. But we have to remember that we are a public institution. We have to deliver value for money, and simply asking for more resources—someone has to pay for that, and it will ultimately find its way into costs for consumers, so we have to be very sensible before insisting that every single objective needs more resources.

**Q40 Julie Marson:** In your questionnaire response, where you were asked about the biggest consumer issues facing the FCA, you said: "The crisis"—the covid crisis—"may encourage more unlawful activity. This will require action by the FCA and proactivity, particularly where firms are operating on the margins of the FCA perimeter." Could you expand on that? What actions and proactivity were you thinking of?

**Nikhil Rathi:** Certainly. Unfortunately, in crisis situations, there are people who will seek to exploit consumers, and particularly vulnerable consumers. If you do a quick Google search, you will see the number of



offers for high-interest products can be quite high, as well as guaranteed loans and so on. The proactivity I am talking about is building on some of the success of the ScamSmart campaign of consumer education and being quite ready to challenge behaviour that is quite obviously wrong. The new financial promotion powers should assist with that as they come through. But, on this point about activity at the margin, I would not want us to have a risk-averse approach; I would not want us to be saying, "We are not going to challenge it, because it is 50:50 whether it is within our legal boundary." We need to be clear that, if it is obvious that consumer harm is being done, we need to be proactive in finding ways to tackle it and deal with it.

**Q41 Julie Marson:** You mentioned ScamSmart. How effective do you feel that is? Do you have a view on how you would like to see that going forward?

**Nikhil Rathi:** My sense is that it is effective. Certainly, as I understand it, there has been significant take-up of visits to the site. The estimates of money saved by consumers by avoiding fraud are significant. There has been a new campaign run recently—I think it was started just a few weeks ago—and I want to see what the results of that campaign are in terms of consumer feedback, but I certainly see this as an absolutely mainstream part of the FCA's work on tackling fraud and scams.

**Q42 Julie Marson:** Felicity mentioned the recent report that has just been released by the Complaints Commissioner. I think he mentioned several examples, but he said he was particularly concerned about how you relate to fraud cases—the kind of priority and the proactivity that the FCA took. I will read an extract. He said that "the FCA appeared to consider that because the police took the lead in many fraud cases, fraud was in some way of little interest to the regulator." Does that concern you? You mentioned some of the other agencies that you need to deal with as well. How would you address that concern, and how would that impact on your relationship with other agencies such as the police and the Serious Fraud Office?

**Nikhil Rathi:** That finding does concern me. If there is fraud, it is important that it is tackled. I need to understand the specifics behind what the Complaints Commissioner said, but I think this goes to what I said earlier: is economic fraud sufficiently resourced across all the different agencies in the United Kingdom that have responsibility for tackling it? Are we all clear about who is responsible for what, where the boundaries are, and who is taking which cases? As I said earlier, I do not think that has been completely cracked yet as a policy issue, and that is something I would definitely want to look at. If it is not the FCA, it needs to be dealt with somewhere by the right body with the right expertise to be able to take the cases.

**Q43 Julie Marson:** You mentioned earlier, I think in response to Harriett's question, that pension freedom was perhaps an area that you thought may have been handled differently. I have seen figures that show the Pension Wise scheme has an uptake of only 15%, despite a lot of signposting to protect people from mis-selling and fraud in that respect.



## HOUSE OF COMMONS

Does that concern you? Is it something you would wish to look at?

**Nikhil Rathi:** Absolutely. Ms Eagle is not here, but I think she has written on that. Some of the trials that are under way, in terms of behavioural insights and the nudge agenda to try to get stronger take-up of the guidance, are important initiatives. It is also important that the FCA gives stronger guidance to firms, to make sure that this information is made available to consumers who are thinking about drawing down their pension or using their pension in a different way. Hopefully those two initiatives will deliver progress, but I am very open to seeing the results of the initiatives and doing more if we need to.

Q44 **Anthony Browne:** I refer Members to my entry in the Register of Members' Financial Interests. I have in recent years worked for financial technology companies—working with them, with the FCA and previously with the British Bankers Association, and negotiating with the FCA on an almost daily basis. Before that, Nikhil, you and I occasionally had meetings about international banking regulations.

My questions are on international regulations. I have some follow-ups on competitiveness, and then on domestic competition. On the international front, you have referred to the fact that we are no longer in the EU. We are searching for a new framework, relationship and trade deal between the UK and the EU. You won't have to sit around the table at the European Securities and Market Authority like your predecessors have. I should make it clear that the FCA is not around the table for negotiations, but you do advise the Government on the details of regulations for financial services. What would your advice be to Government about the best relationship for the UK financial services sector, in terms of its relationship with the EU going forward?

**Nikhil Rathi:** It is good to meet you again, Mr Browne. There is obviously a negotiation going on on the potential deal between the UK and the European Union, and the role of the FCA is to provide input and analysis and to make sure that the industry is prepared for the different scenarios that might result. The final decision will be taken by Government and Parliament and we have to make sure that we are ready for whatever those decisions might be. Irrespective of what the nature of the relationship that is agreed might be, what is going to be absolutely fundamental is strong, co-operative supervisory relationships between the FCA and the partner supervisors in the EU and beyond. I will certainly treat that as a priority because cross-border business is fundamental to the way in which our markets operate and that requires good supervisory co-operation to make sure that we all collectively deliver our objectives.

There are also some very big issues coming up in the next year, which are global issues—for example, the transition away from LIBOR is not something that one market on its own can secure successfully. That is going to require co-operation between the UK, the EU and the US and other partners as well. That co-operation and those relationships are very important. I start from a place of knowing a number of these supervisors,

given my past experience, and I look forward to building those relationships.

Going forward, we want high, internationally consistent standards. I want the FCA to be a thought leader in developing those international standards. As you touched on earlier, the FCA has been doing that in FinTech and in a number of other areas, too. Those high international standards should mean that we are equivalent to any comparable regime anywhere in the world. I would not be in the camp of saying that the UK should be a complete rule-taker, simply waiting for others to decide standards. That is not how you can run a complex, wholesale, global financial market. I would want us to have high-quality standards that stand up to scrutiny anywhere in the world and that suit the environment that we are operating in.

**Q45 Anthony Browne:** That is good to hear. The UK has obviously been setting standards globally or been very influential about it far more than I think most people in the UK realise.

There is a trade-off in the relationship with the EU. At one end, we could have been in the single market—that is not going to happen—and full rule-takers, as it were, and at the other end, there is no deal, where we have full freedom of movement in terms of our regulations. Where do you think the ideal balance is? Do you think we should have an equivalence regime, which is a legally defined thing under the EU regulations, or a mutual recognition agreement? How much freedom of movement should we have from EU regulations?

**Nikhil Rathi:** We obviously have a starting point where the rules are pretty much identical and so in principle there should be no issue with mutual equivalence. Then I would hope that we would have a structure and a framework where there is good strong dialogue about standards, but also about individual supervisory issues, where the trust is built, such that if we decide to make some adjustments because we have to, either because of timing, go sooner, or because there is a specific set of circumstances, there is no questioning of the motivation objectives behind making those changes—they are being made for the right reasons and that shouldn't jeopardise equivalence. I do think it is going to be important for the UK to have a good degree of freedom to develop rules, not just in terms of the content but in terms of the pace with which the changes are made as well, because we are dealing with very rapidly evolving financial markets at times and we need to move quickly, as we have seen in the last few months.

**Q46 Anthony Browne:** You said a few minutes ago that one of your roles at the FCA is to make sure that the industry is prepared for different scenarios, so that needs to happen. What do you think would happen if we don't end up with a trade deal after the transition period ends? What would the impact be?

**Nikhil Rathi:** There has certainly been a huge amount of preparation over recent years by industry to prepare for different scenarios, including the scenario that you describe. My sense is that a large number of issues have

been planned for and the risks are reasonably well understood and there are plans in place to manage and mitigate as many of them as possible. Inevitably, though, if there is a completely disruptive change at the end of the year, there are risks to market liquidity and there are some knotty issues particularly around servicing contracts for retail customers, where, if you don't get the legal issues sorted out, there might be complications in how those contracts are serviced, which could cause challenges in the early days of the scenario you describe. There is a lot of work going on now, I know, to try to find ways to tackle those particular issues.

**Q47 Anthony Browne:** You were asked a lot of questions about retail financial services. That regulation generally has been a national competence, but on international markets it is almost totally wholesale. After the end of the transition period, we will have far more freedom to adjust rules in different ways. Are there any particular rules that you think we should change? Various people have been advocating for different types of changes, particularly around MiFID II, for example.

**Nikhil Rathi:** Obviously, there is a MiFID II review going on in the European Union as well. I would not want to flag any particular changes right now and get the industry very excited about what might be on its way, but I would be focused on high, internationally consistent standards. I am not averse to changes that make our markets more efficient or where there is regulation that is redundant and is not making a difference in terms of our objectives.

On this equivalence debate, I would also say that it is always described the UK changing regulation, but actually, I think you might find that in some areas, the EU wants to change.

**Anthony Browne:** It is a two-way street—absolutely.

**Nikhil Rathi:** So we will need to monitor that closely, as well.

**Q48 Anthony Browne:** I have a follow-up question on international competitiveness. Felicity asked you how you felt about that as an objective, because the FCA does not have an objective to promote competitiveness internationally. You said that you were never that keen on it, despite having worked for an organisation that lobbied for it. Why are you not that keen on it?

**Nikhil Rathi:** A strong, well-regulated, globally focused and well-respected institution will deliver a competitive financial system for the United Kingdom. That is how I would approach it. I think the risk that some regulators have with a competitiveness objective is that every single time you take a decision, it gets challenged on those grounds. That can lead to complications in the decision-making process. I want to make sure that we have a successful and healthy financial services sector, a successful wholesale financial market, but the bedrock of that is the strength of our regulatory and supervisory regime.

**Q49 Anthony Browne:** I do not want to put words in your mouth, but is there a fear that it would basically be code for a return to light-touch



regulations, which has been discredited?

**Nikhil Rathi:** I do not think that the UK will ever go there. After the experience of 2008-09—and even more recent experiences—I do not think there is any support for that in Parliament or in the industry, and there is certainly no support for that in the regulatory regime. It is more about clarity of objectives and of decision making. Competitiveness is a very complex concept and relies on many things, as well as regulation, such as tax and the wider business environment. How competitive a financial market is depends on how many of those things intersect.

Q50 **Anthony Browne:** You said “globally focused”. Obviously, a lot of financial services institutions in the UK are global organisations that happen to be headquartered in the UK—HSBC, Barclays, Prudential and so on, and the London Stock Exchange to some extent. Would you be thinking about the impact of their global operations when regulating them in the UK market? You have the option of making the regulation extraterritorial.

**Nikhil Rathi:** I think, for globally connected financial institutions, you have to have an understanding of how the activity that falls within the remit of the FCA connects into the decision-making structures of that institution, which may very often be outside of the United Kingdom. We have worked in global financial institutions where the decision making is in the US, so having a good and deep understanding of that is important.

In these global complex institutions, strong and co-operative relationships between—in this case, the one I am describing—the FCA and the US regulatory institutions are going to be absolutely critical. The senior managers regime also, as I understand it, enables the FCA, if it needs to, to reach into decision makers that are outside the—

**Anthony Browne:** It does, yes.

**Nikhil Rathi:** I think that is an important tool as well.

Q51 **Anthony Browne:** My last question is just about not competitiveness but competition between financial institutions in the UK. You do have a statutory objective to, I think the word is, promote competition between banks and other types of financial services organisations. The FCA used to have a good reputation for doing that. Do you think there is more that the FCA could do to promote competition?

**Nikhil Rathi:** The competition objective is a relatively recent addition to the FCA’s repertoire and the FCA is building up capabilities there in terms of market studies and bringing out a couple of enforcement cases; so I think there is definitely a way to go to get it fully embedded into the bloodstream of the FCA, as it were.

I think the other thing that we are going to have to be very vigilant about, coming out of the pandemic, is the impact of what has happened in the last six months on competition, particularly in retail financial services, where some of the challengers, some of the people who are nipping at the heels of the incumbents, may find themselves more stretched in different



## HOUSE OF COMMONS

sectors—without picking on any—than they have, and could end up with a model which consolidates the incumbents even more; and what that might mean in the medium to long term for consumers. So the competition angle needs to be looking at it from a policy perspective as well as using powers, too.

**Q52 Anthony Browne:** There have been a lot of new entrants into the financial services market. I mentioned the FinTech firms—obvious example: many thousands of them have got new challenger banks. One of the complaints from the new entrants in the industry is that often they have new business models that the FCA has not had to regulate before, and they come to you and say, “Can we actually do this? Would we be allowed to do this? Would you try and stop us?” and the FCA—you don’t like to give a clear yes or no, which leads them to be in a sort of no man’s land in terms of regulation. They don’t actually know whether they are allowed to do it or not, and you won’t tell them whether they are allowed to do it or not, and they would prefer to have greater clarity, which they argue would be better for competition—if they just knew whether they are allowed to do something or not. Do you think the FCA could improve its guidance and the clarity of what is allowed and not allowed for new business models?

**Nikhil Rathi:** First of all I would say that my impression is that the FCA, when it comes to international leadership in this area, has got a very strong record. Sandbox in particular is very well regarded, and I remember a quote from the CFTC in the US that the FCA has set the “gold standard” when it comes to engaging with new technology and FinTech. So I think we start from a good place.

Obviously, when you are looking at new models, people want clarity soon and clarity quickly. Sometimes issues are not as straightforward as that. I think consultation has come out in the last couple of days, for example, on crypto-assets and trying to work out what the right framework is for those. These are not easy issues that can be solved with a yes or no answer; but what I certainly want the FCA to be doing is to be open minded and to be thinking hard about how new business models can be supported—provided they don’t compromise the core consumer protection objectives.

The other issue with business models, particularly for the new arrivals into the market, that we need to be very mindful of, is that the business model as a start-up may be one thing; is it a business model that can scale, and will the start-up have the systems and control that enable them to manage the business properly when it does scale? I think some of the issues with one or two of the FinTechs in recent times have been that the business model worked really well to begin with, but when it scaled the systems and controls were not there, and that has caused a few issues.

**Q53 Anthony Browne:** Thank you. My very last question: I am going to ask the salary question. I think the salary of the CEO of the FCA is public domain. I don’t know whether it has been announced yet or not; but what are you going to be paid?

**Nikhil Rathi:** £455,000, with a pension contribution and no bonus, and no other benefits.

**Anthony Browne:** Okay, I make no observation on that. Thank you very much indeed.

Q54 **Mike Hill:** In the past, the Treasury Committee has explored the FCA and, to be frank, they found them to be pretty slow generally in dealing with issues. You have said that tackling this is a priority of yours in terms of your transformation agenda. Why do you think the FCA can appear to be slow in its work at times?

**Nikhil Rathi:** This is a question I am going to have to get into in a bit more detail. Clearly, in the last few months the FCA has worked at extraordinary pace. That is clear for everyone to see. It is certainly capable of doing that when the needs arise. There are different reasons why in the past there has been this suggestion of lack of *[Inaudible.]* Enforcement is one area where this criticism comes up, and I think everybody would want to see prompt and speedy enforcement. But it is also the case that enforcement cases can sometimes be complex. There are people's rights. There are, especially in today's world, incredibly large amounts of data that need to be processed to deliver a successful prosecution, and that just takes time. If you don't take the time on it, you might not get a successful outcome.

Likewise, in decisions that prohibit individuals from the industry, if you are taking away someone's livelihood, you need to make sure that due process is followed, otherwise the case will not stand up. Those are sometimes some of the reasons that I hear. The question is: are there ways of looking at best practice from elsewhere in the world so that we can speed those things up?

The second one is on decision making more generally. Again, it is impressionistic from some early conversations. Is there sufficient enforcement and delegation through the organisation to take decisions, or have some of the issues that have arisen in the FCA in the past prompted a bit of a culture of risk aversion where everything has to go through committees and get decided at more senior levels? That is something that I would like to look at to see whether there is an opportunity to enable senior leaders in the organisation to make decisions more quickly and have confidence. But that also needs a dialogue with the Committee as well because there are 60,000 firms. It is a very broad remit, and we are not able to avoid things going wrong. We cannot take risk out of the system. We need to do our best and manage and mitigate risk, but there are going to be things that go wrong. Having a good dialogue with the Committee about the processes and systems that we have and how we deal with things when they go wrong will be important.

Q55 **Mike Hill:** It has been noted, and you have said it already, that the FCA should be more prompt in its enforcement and more preventive in its approach to consumer harms in particular. Would you expect this Committee to see any results, and will the FCA be seen as more



## HOUSE OF COMMONS

interventionist during your term of office?

**Nikhil Rathi:** I would certainly like you to see results in the area, for example, of financial promotions. I imagine, particularly if the new powers come through, that we will be more interventionist. I would want to see the data analytics strategy working in a way that enables us to prevent things from happening. That is something that I look forward to talking to the Committee about in the coming years.

Q56 **Mike Hill:** Do you think that the inaction of the FCA previously has been in part a result of concerns around legal risks? You have touched on that. To what extent are you prepared for the FCA to take on more legal risks and challenges as it seeks to intervene more promptly and more effectively?

**Nikhil Rathi:** I think that has been a factor. Certainly in my early conversations with colleagues, there is a very strong and effective legal team. Decision makers need to use legal advice in a sensible way. Just because legal advice comes in saying 50-50, that does not mean that you do not have a go. So, I think there is a general point around challenging excessive risk aversion; I absolutely agree with you on that. What we cannot do is circumvent due process, particularly when taking important enforcement decisions, even if that means that they will take a degree of time.

Q57 **Mike Hill:** Broadly speaking, do you think there is an imbalance in the legal risks faced by the FCA? For example, firms will sue if they feel unduly put upon, but there is no corresponding balance for consumers. And if that is the case, how can it be countered, in your opinion?

**Nikhil Rathi:** I think there is a very important debate to be had in the coming months around what is called the private right of action of consumers. It is absolutely imperative, as I said earlier, that consumers feel that if they have not been treated well, they have a mechanism to ventilate those issues and get redress. The Financial Ombudsman Service plays a very important role in that regard and can support redress up to £350,000.

Whether a right of action where the consumer has to undertake costly litigation will be the right approach to be able to solve some of the concerns that you describe is not clear; the evidence is not clear around that. However, thinking about ways in which the current system can be strengthened is certainly something that I would be interested in looking at.

**Chair:** Looking at the time, if any Member who would like to ask anything further before we conclude, I am very happy to bring them in.

Q58 **Anthony Browne:** I want to ask one question on an issue that has been controversial in the past, which is de-banking and the industry and financial services institutions being overly cautionary about financial crime and fraud, and stopping a whole range of customers from actually getting accounts, and that includes one group that frequently hits the headlines: politicians. The financial services industry blames the rules,



## HOUSE OF COMMONS

blames the FCA, and says, "Well, they're so tight that we have no options."

I am just interested in hearing your thoughts on that area, and on the balance between the fight—the very important fight—against financial crime and money laundering, and the ability of financial services organisations to offer services to a whole range of different people. Do you think the balance is right? Do you think the industry has over-reacted sometimes?

**Nikhil Rathi:** Some of the cases I have heard—again, this is very impressionistic; I need to get into the detail, so I cannot give you expert advice—suggest that there has perhaps been at times quite a blanket approach. Then, when specific issues arise, for example bank accounts for embassies from Latin America—

**Anthony Browne:** Russia.

**Nikhil Rathi:** Where suddenly there was this situation when they could not find them. And when they issued a search, generally solutions can be found.

At the same time, we have to recognise that a number of bank institutions have been through a very tough period in dealing with transgressions of rules, particularly when it comes to issues in the United States. Clearly, that weighs very heavily in how many of them think about these issues around financial crime and money laundering.

So, we need to strike the right balance, and I am happy to hear any specific concerns you have about specific situations and how we look at them.

**Anthony Browne:** I have no specific concerns at the moment; it is just that it has been an ongoing issue in the industry. And you see an example that has been in the headlines just yesterday. This does not affect the FCA, but the global financial institutions like HSBC and other banks are actually checking their clients in Hong Kong to see whether they are involved in democracy demonstrations or not, and then taking away their accounts if they have been. Obviously, that is a concern there, but there have been similar examples in the UK. However, I do not want to raise any particular examples now; I was just interested in your general thoughts.

Q59 **Rushanara Ali:** I wanted to follow up on Anthony's point about de-risking. I was involved with some of the campaigning when this started a few years ago, and money transfer businesses and remittance were hit very hard. In fact, I lobbied Anthony and his organisation at the time, when he was on the other side.

**Anthony Browne:** I remember.

**Rushanara Ali:** It has been going on for a very long time, and one of the concerns we had was that the blanket ban and blunt instruments drive all this stuff underground, which makes it harder to fulfil other objectives



## HOUSE OF COMMONS

like tackling organised crime and so on. It needs another look. Related to that is the fact that we have seen examples—I have certainly seen examples—that have come up where individuals are profiled. Every time I raise it, banks deny that they are doing it. Faith-based organisations have been profiled, and in cases where it has been challenged, they have found solutions, but because of the legal requirements consumers do not get very much information about why their accounts are being withdrawn. I appreciate that there are cases where I am sure there are good grounds for doing that, but in some cases ethnic profiling is going on and organisations are being targeted. Where there are challenges made, ways through it are found, and I have examples of that, but some organisations are finding themselves badly treated for no good reason. It would be great if you could look into that, because the Treasury did a lot of work on it and then it sat with the World Bank but, in the meantime, we have covid and huge issues with remittance, which has gone down dramatically anyway, never mind these barriers around money transfer. We need safe ways for our constituents to be able to transfer money. My last point was about the FOS. FOS is very stretched in terms of lots and lots of responsibilities being given to it, and it would be good to look at how we ensure it has the proper support and resources to be able to support customers who face problems and make complaints; it can take a very long time to see them through.

**Nikhil Rathi:** I will take away the point about the FOS and look at that. I am aware of the work and the campaigning you did on the remittances issue, which is incredibly important because the consequences for families of not being able to receive remittances can be quite significant. I will happily look at that. Ethnic profiling clearly is unacceptable; any decisions that are made need to be risk-based, and these are also conversations for the Treasury and DFID to engage on. I am happy to look at that as well when I land at the FCA.

**Chair:** Nikhil, thank you very much indeed for joining us. We have had a very wide-ranging session, and I think it is fair to say that, of the organisations over which we have oversight, the FCA is one of the more important. That is because, when it is working well, it has the ability to add to human happiness, but when it falls down, as I think we as a Committee feel it has done on a number of occasions in the past, it contributes to the sum total of human misery. This is a key role, to lead this organisation and to show the kind of leadership of which you spoke. Certainly, the FCA is an authority that we will be looking at very closely, and we will be returning to have sessions with it in the autumn when we come back after the parliamentary recess. Thank you once again for the time you have given the Committee and the answers you have provided to our questions. That draws this part of the proceedings to a close. We will now go into private session to discuss our report.