



FCA Annual Public Meeting 2019

Wednesday 17 July 2019

Introduction

Charles Randell

Chairman

Well, good morning, ladies and gentlemen. And thank you very much for joining us here today whether you're in this hall in London or watching on the live web stream.

I'd just like to start with a couple of housekeeping points. If you do have a mobile phone, could you please turn it off because it could disrupt the meeting or interfere with our audiovisual equipment? We are not expecting any fire practices today, so if there is a fire alarm, please could you exit through the designated fire exits.

The plan is to finish this meeting by 12 noon and we've got a lot to get through. For those of you who've been to one of these before, what you can expect is some relatively brief remarks from Andrew and myself and then the main part of the meeting will be your questions.

Our duty of public accountability is one that we take very seriously, and this annual public meeting is part of that. So, thank you very much for coming. Our accountability takes a number of forms. We're accountable to parliament through the Treasury and the Treasury Committee. But we are regularly challenged by many others, by parliamentary committees and parliamentarians, consumer groups, media, the firms we regulate, business and trade associations.

And we're also supported and challenged by our consumer panel and our practitioner panels. And I'm very pleased there are representatives of some of those panels here today. Over the last few months, we've interviewed a number of consumers and other stakeholders about their dealings with the FCA and the issues that are on their mind. This is what they said.

[Video]

And I expect we'll return to some of those issues in our question and answer session, as well as a range of other issues which you've raised in your pre-submitted questions.

But first I'd like to ask our Chief Executive, Andrew Bailey, to join me on the stage. Andrew will provide an overview of our work in the year ended March 2019. Andrew.

Overview

Andrew Bailey

Chief Executive

Well, thank you, Charles. And can I add my thanks to that of Charles' to all of you for being here today. It's very important and we are very grateful to you for sparing the time.

As Charles has said, the FCA is ultimately and most importantly accountable to the public. And that's why of course today is important in its own right. And as Charles mentioned, shortly we'll turn to the most important part of today's session, which is the question and answer part. But first, I'd like to spend a few minutes looking at some of the work that the FCA has done over the last year.

So, there has to be a starting point and it's really not possible to reflect on the year that's gone by without talking about the B word, which is, of course, Brexit. It continues to occupy a lot of our time and resource. If you ask me to sort of put a measure on that, currently we've got around 320 members of our staff who are currently working on Brexit in some capacity.

Up until a few months ago when we were very focused on the contingency planning to be done, of course with the potential exit at the end of March, that number was higher. It was around about 450. So, that gives a flavour of one measure. We've published nearly 2,000 pages of consultation on changes connected to EU withdrawal. Normally I'm not terribly proud of publishing 2,000 pages of consultation but this was obviously extremely necessary and very technical and done to obviously short deadlines by my colleagues.

Parliament has passed 60 statutory instruments relevant to the FCA and there are another 12 expected to be passed before 31 October and that's all about what's called the onshoring of EU legislation into the UK to enable our regulatory system to continue the day after Brexit.

Now I always say when I talk about Brexit that the FCA doesn't take a position per se on Brexit. That would be inappropriate for us as a public body. Our priority is a different one, which is to ensure that whatever time or manner it occurs in, consumers are protected and markets are prepared as far as absolutely possible, and that's the basis on which we've been undertaking contingency planning for the full range of possible outcomes.

Alongside that, we've also been developing or start to develop views on what conduct regulation might look like post-Brexit, and I'll return to that theme towards the end of my remarks briefly. But of course, there is a very big world out there beyond Brexit, actually the biggest part of our responsibilities.

And it's always reinforced to me when I do regional visits as I do and the ones I've done in the last year meeting consumers, charities, businesses and many others, it's a reminder of that world. Recently I was in Plymouth and there I heard military veterans talk about the difficulties they face in accessing credit in their lives after leaving the military service.

And along with Financial Lives, our tracking survey of adults in their finances, these visits offer vital insights into the experiences of consumers and provide a key source of information to us that underpins our work on protecting consumers.

Now in the last year, an essential part of that work has been the duty to prevent harm to consumers, and particularly delivering a wide range of remedies to prevent the excessive charges associated with high-cost credit. And again, just to put a measure on it, high-cost credit is used by around about 3 million people in this country. We introduced a cap on prices and charges in the so-called rent-to-own market, which we estimate will save consumers around £23 million a year.

We introduced a package of measures to tackle harms in the so-called buy-now, pay-later market, which again we estimate will save consumers around £40 million to £60 million a year. And we're tackling overdrafts, proposing changes to deliver simpler and fairer pricing. And we expect the typical cost of borrowing £100 through an unarranged overdraft to drop from around £5 a day to less than £0.20 as a result of these changes.

And we know that the burden of excessive charges falls disproportionately on vulnerable consumers. Less than 2% of customers currently pay 50% of unarranged overdraft charges. So, we believe this is an area where our interventions can make a real difference. And we also believe that we've already made a significant impact in this sector with the cap on high-cost short-term credit, so-called payday lending, often saving consumers around about £150 million a year.

Now in the film, of course, another big issue that was picked out was pensions. So, we're looking also at where challenges arise later in people's lives. And of course, important in that regard, there are demographic changes, changes in economic trends and [we need to think about] how those affect what we then call the intergenerational position in this country because there's no question – and Britain is not unusual in this respect – that it is changing substantially.

And of course, that reflects a combination of increasing life expectancy, the fact that we've now for over a decade been living in a low interest rate environment and the consequences that has for building up the necessary savings for old age and the challenge that comes with it. So, we're concentrating our energies on the interventions we believe can have the biggest impact on that important landscape.

We've proposed a package of remedies to address the challenges identified in our Retirement Outcomes Review, and that includes offering consumers investment pathways where they don't take advice, to support decision-making, and that pension investment should not be defaulted into cash savings unless the customer expressly wishes it.

We've also prioritised pension transfer advice, thoroughly examining the activity of firms in this space and engaging with industry to guard against harm to consumers. And let me add there that one of the important reasons that that is so high on our list of priorities is because these are amongst the most complicated decisions that anybody can take in their financial life.

And we've also published a discussion paper on non-workplace pensions to examine competition in this sector with a view to publishing feedback statements later this summer.

So, let me move on to obviously the very big part of our activities which is working with the firms that we authorise, around about 60,000 of them. A vital safeguard against consumer harm is a healthy customer-centric culture at the heart of every firm. New on the landscape is the Senior Managers and Certification Regime, which we are using to drive forward a shift in the industry. So, there are clear lines of accountability between a decision made and the senior manager who is responsible for making it.

The SM&CR as it's called came in originally for banks. Last December we extended it to all 560 insurance companies and we've now published near-final rules to extend the regime to 47,000 authorised firms not yet covered. Now going beyond the SM&CR, culture continues to be an issue of [the] highest importance for us. It's a central consideration for our supervisors and they spend a good part of their time looking at the drivers of behaviour including incentives to staff, governance arrangements. And this is, sort of, in many ways, the guts of what they do day-to-day.

But of course, we have to recognise that sometimes behaviour in the regulated population falls short of what we expect. Where we've seen firms violating our rules or not meeting our expectations, we take action. In the last year, we've issued 265 final notices, secured 288 outcomes using our enforcement powers and imposed 16 financial penalties totalling £227.3 million. In there amongst those, in December we fined Santander £32.8 million for serious failings in its probate and bereavement process. In April, we fined Standard Chartered £102.2 million for poor anti-money laundering controls. And last month we successfully took 2 individuals to trial for insider dealing leading to that conviction and imprisonment.

We also protect consumers through providing information via the FCA Register. The FCA Register holds about 750,000 records. We recognise that there are data quality issues in it. We recognise that it has to be made fit for the fact that it is now playing a larger role in an FCA that has a much larger remit, that comes back to my point about nearly 60,000 authorised firms. And that's why we'll be investing £5 million in it over the next year.

I've said a number of times in Parliament that when I came to the FCA in 2016 as Chief Executive, I had – because I'd been on the Board before – a list of things in my head that were priorities. I didn't have the Register in my head, it's been one of the things that has had to come up the list very rapidly as we've seen the larger remit and the issues that we have discovered.

Now moving on an issue that has caused a lot of frustration for – I know – for many stakeholders is the question of where we can and cannot take action. We often call it the regulatory perimeter boundary. It's been thrown into sharp relief by a number of issues that we've seen. Of course, an important area which is concerning small and medium-sized enterprises where we have limited powers to intervene is the way that the perimeter is drawn.

But what we have done in the last year is increase the limit for complaints to the Ombudsman Service to £350,000. And that coincides with an extension of the Ombudsman Service to a much larger number of SMEs, meaning that we estimate an additional 210,000 small businesses will now be able to make use of the service.

Now, of course, as we've covered at quite a few of these meetings in the past, the issue of protection for SMEs has played out prominently in the case of the Royal Bank of Scotland treatment of customers transferred to its Global Restructuring Group, GRG. As I know many of you know, the independent review that we commissioned a number of years ago raised important and grave issues concerning their treatment. And it was only right that we felt we used our full investigatory powers to see if there was formal action that we could take, notwithstanding the point about the perimeter.

It turned out to be the case that the powers are very limited in this respect and that's what we explained in the final report that we issued on GRG last month. The issue of GRG goes back a long way. It's occupied quite a number of past annual meetings. But it's also important, of course, that we look forwards and that we learn those lessons from the past and we think about what sort of regulator we need to be looking forwards, because the world, of course, is also changing. So, we've taken steps on SMEs.

But technology is another important area where we are moving rapidly because, of course, innovation offers huge opportunities for consumer good. The work that the FCA does, including, obviously, the Sandbox is testament to that. But we recognise also that innovation and technological change can be an enabler of new forms of harm and it can again be most prominent at what I call the blurry edges of the regulatory boundary, at the perimeter. There's no coincidence that that is the area where these sorts of things can crop up.

It raises questions, as innovation happens, about what sits inside and outside the boundary. And, of course, that matters because it determines where consumers are protected and where they're not, when we can take action and when we can't. And it's a discussion that we often have in the FCA – that the perimeter issue is a thread that links together some of the most difficult and challenging issues that we have to deal with and which attract most public commentary for good reasons.

So, if I picked out mini bonds, cryptoassets, funeral plans and GRG and said what do all of those have in common, people might puzzle for a moment. They have one thing in common or at least one thing I know in common, which is, they all engage issues around our regulatory perimeter.

And it's with that in mind that we published our first assessment of the perimeter last month and that's an exercise that we plan to do annually so that we can actually give more prominence and pick out publicly these issues with the perimeter.

There is also a growing impetus to grapple with this issue because as technology increases the speed of change in financial markets and we continue to see examples of the perimeter issues coming up, we can also expect to see those issues coming up more quickly, and frankly we also see them coming up far more readily through marketing on the internet, and that poses its own challenge to us. And it's not surprisingly in many ways that these incentives exist, because in a low interest rate environment, there is a market for consumers to look for ways to boost their savings in an age where, as I was saying earlier, because of the challenges around pension saving and longevity, these savings need to last longer than ever.

So, in that environment, high risk investments are increasingly marketed to retail consumers. Now to be very clear, it is important that counteracting the risks in these high-risk investments is not left to consumers alone, because there is a responsibility to act in the public interest. And that is why I support the initiatives that are now taking place to review how we deal with the perimeter, how we deal with these difficult issues around the perimeter, and what changes we need to make.

So, I mentioned earlier when I was referring to Brexit that we were turning our thinking towards the future of regulation. And there's more – Brexit is not the only backdrop, I hope you probably sort of picked that up from what I have said and what I have just said about the perimeter. [That's] why it's right to think about the future of the financial conduct regulation at this point in time. It's also, in my view, relevant because a significant part of this debate turns on the issue of outcomes and rules. Rules, of course, are a crucial mechanism for delivering outcomes, delivering outcomes we want to see for consumers and for markets. But they can also be interpreted so rigidly as to become what's often called a box-ticking exercise.

Now there is a lesson here that we want to see reflected in firms' behaviour, but any organisation that prioritises being within the rules over doing the right thing will not stand up to scrutiny for long. And that of course is an important tie back to what I said earlier about culture and about the Senior Managers Regime. And that's why we hear incidents like the Woodford affair as an example of this, where firms appear to be following the letter of the rule but not the spirit, and it raises questions about the rules themselves.

Now the UK's exit from the EU would provide important context here. Because while the post-Brexit future is unclear, and just to remind [you], we don't take a position on Brexit, it's fair to say that there are aspects of our regulatory approach that may have developed differently had they not done so unilaterally versus our membership of the EU. So, while we don't take a position on the substance of Brexit ourselves, we are using this opportunity of the UK's prospective exit to consider the future of conduct regulation and how best to deliver it in the public interest. And it's something that we will be both talking about and consulting on quite broadly in the months to come.

Summing Up

So, let me sum up. This has been a very busy year for the FCA, they mostly are, but I think this one has had a number of particularly big challenges in it, and I don't expect the next 12 months to be any different in that respect. We have seen the conclusion of some long-standing issues, but we have to remain vigilant in the face of emerging harms. We have to be, of course, always guided by our duty to act in the public interest, and accountability and transparency are crucial components of that.

Again, to put a measure on that, in the past year alone, the FCA has given oral evidence to parliamentary committees on 15 different occasions, and I have no doubt that we'll be called many times more in the year ahead, and I actually welcome that, because that's an important part of our accountability. But, of course, we also continue to be answerable to you, the public, that we're here to serve. And in that spirit, I look forward to your questions. So, thank you, and I will now hand back to Charles.

Reflections

Charles Randell

Chairman

So, thank you Andrew. We'll shortly be opening the floor for questions, but I'd like to add a few brief reflections of my own. This is the second annual public meeting that I have attended as chair of the FCA. And since taking on the role in April of last year, I've had the privilege of travelling all around the UK meeting consumers, businesses, politicians, charities and many others. What's striking in these conversations is that the work of the FCA has a real impact on people up and down this country, and it often invites very strong feelings. This is a reflection of the very central role that financial services play in consumer's everyday lives.

It's been brought home to me by some of the visits I have done in the last few months. In Belfast for example, the complex history of this city adds another dimension to financial challenges such as illegal money lending. In Stoke, I heard about the problems of access to cash as bank branches disappear from the high street.

A new phase

2019 marks 6 years since the FCA came into being. When it first began in 2013, the FCA faced a daunting task, dealing with a mountain of conduct issues that became evident in the wake of the financial crisis, and secondly, taking on the regulation of 34,000 consumer credit firms. Under Andrew's leadership and the publication of the Mission in 2017, the FCA began a new phase. The Mission reaffirmed consumer harm as the guiding principal of all of our work, helping us to prioritise in the face of a growing remit and an evolving demographic and economic landscape. In this context, we've been thinking about how we can meet our growing responsibilities with our finite resources to deliver the maximum public value. And part of this is reflecting on our past performance and considering what we can do differently to best deliver on our objectives.

Today's technology is adding urgency to this question with new products and services entering the market at speed, able to reach a large number of consumers. And as Andrew mentioned, we published our first report on the perimeter last month which considers the challenges that our regulatory boundary throws up and where it might lie in the future. I believe it's vital that

we're transparent about what we can and we can't do within the confines of our current remit, not least because bad actors see opportunities to exploit consumers in grey areas.

Independent review

The perimeter report is an important tool to this end, but we must also recognise that we don't get things right every time, and we must strive constantly to improve in order to keep ahead in this fast moving and evolving sector. That's why we've commissioned an independent review into London Capital and Finance by a very senior retired judge, Dame Elizabeth Gloster. London Capital and Finance was an authorised firm which issued retail mini-bonds. The review is considering our supervision of the firm and the circumstances around its collapse. It's a very serious case which has had a major impact on thousands of people.

We are also proceeding with independent reviews of 2 cases whose roots lie in the period before the FCA came into being. The Connaught Income Series 1 Fund, and interest rate hedging products. I said that the context in which we work is constantly changing, the burgeoning use of data analytics in financial decision making is one example, Brexit is another. The financial system throws up many urgent challenges to be addressed. We see low levels of financial resilience, financial literacy, and savings at a time when consumers are being expected to take more responsibility for their finances. These challenges can't be managed by the FCA alone, but they do have a big impact on how we carry out our work, and our business plan this year reflects this evolving landscape.

Technological change

Technology change presents both an opportunity, in the benefits it can offer consumers, and the threat in the way it creates opportunities for bad actors beyond our perimeter to scam their victims. One of our priorities this year is to turn technology against criminals to help us detect and tackle financial crime, as well as developing our work on operational resilience to ensure that firms have robust systems in place. As well as taking on the challenges of the present, we're also looking ahead. Facing fundamental societal shifts and profound technological change requires us to be the most agile and responsive regulator we can be. So, guided by the Mission and our duty to deliver public value, we've started a debate on the future of UK regulation.

In this next phase of the FCA, our focus will be on transforming our capabilities, our use of technology, and our regulatory framework to put us in the best position to deliver our objectives. In an uncertain, fast-changing world, the public look to us to provide more protection to consumers and to provide it faster. It's clear that risk warnings alone aren't enough. So, how we manage the threat of high risk often unregulated products will be a real focus.

Travelling between Stratford, Edinburgh and everywhere in between reminds me of the breadth of our remit and the many consumers we're here to serve, and I'd like to thank them; the consumers, the charities, and also the businesses and firms who have given up their time this year to share with me frank insightful thoughts on the work we do.

And with that, we'll now open the floor to questions. For the questions, we're going to be joined by the members of the FCA Executive Committee, Georgina Philippou, Chief Operating Officer; Chris Woolard, Executive Director of Strategy and Competition; Megan Butler, Executive Director of Wholesale Supervision, Jonathan Davidson Executive Director of Retail Supervision, and Nausicaa Delfas, Executive Director of International.

Q&A

Charles Randell: Now we've received a number of questions in advance, and my aim is to get through as many of those as we can while also allowing time for questions from the floor. And when we do move to questions from the floor, I will ask you to raise your hand if you want to ask a question. There are colleagues with microphones and numbered signs around the room, and they will come and find you, and based on a number, I'll then call your question.

We have got a lot to get through and a limited amount of time, so I'm going to rather strictly enforce a rule of one question per person because we need to give as many people as possible a chance to ask questions. So, I'm going to start with some of the pre-submitted questions. There are 3 questions that I'm going to take about London Capital and Finance and mini-bonds. We've had questions sent in by Ms Ghassemieh, Ms Barker and Ms Doherty. Now, if you are here and you want to put your question yourself, please do raise your hand, otherwise I will read out the questions for you.

Okay. So, Ms Ghassemieh asks, the FCA's lack of action in preventing the LCF disaster left 11,600 people at loss, with some losing their life savings, not detecting a fraudulent business for years, and allowing them to even offer ISA's which resulted in an extra £108 million pounds loss of public individual savings in only one year. They should have checked and detected that what FCA had offered was not ISA eligible from the start of the offer. They failed to protect the public and their name was on every single piece of LCF marketing material which resulted in the public trusting that the FCA was checking the business.

Ms Barker asks, why did neither the FCA nor FSCS know what companies are covered by FSCS compensation. LCF investors have emails from FSCS stating that they are covered, and yet after investing, they are now informed FSCS were wrong. How can investors check what companies are covered by compensation if the organisation responsible is clueless and takes no responsibility for misinformation which has caused millions in losses?

Finally, Ms Doherty asks, at last year's annual public meeting, you noted that your financial promotions team and supervisors were targeting a number of authorised firms responsible for approving financial promotions from regulated issuers of non-standard investments such as mini-bonds. What action was taken against each of these number of authorised firms targeted? I note the action taken in respect to London Capital and Finance, and will any new guidance be issued?

So, there's quite a lot in those questions, and I'm going to put them to Andrew Bailey to answer.

Andrew Bailey: Well, thank you Charles. And can I start by emphasising how much we appreciate the very worrying situation for those who have invested in London Capital and Finance, and of course the concern about the risk that the money invested will not be recovered. And I also of course referred to the fact as Charles has done that there is an independent review around this – being undertaken by Dame Elizabeth Gloster, and that will be important because obviously, it's important that it gets to the bottom of this affair. But let me go on to take those 3 questions in turn.

It's important also to bear in mind for all 3 of these questions, something that I said earlier in my remarks which of course is do with the perimeter and that issuance of mini-bonds is outside

the perimeter. But let me take the first question which is really to do with the FCA's own actions.

And if I can work backwards, which is, I think anyway, an easier way to go about it, in a letter that I wrote to the Treasury Select Committee 18 months ago on the perimeter, I made it clear that we would take – we would be more proactive and more aggressive in taking action where we saw harm and misconduct taking place outside the perimeter, where there may be a connection to the perimeter. And when we became aware of the particular issues, that led to the actions we took from last autumn onwards in respect to LCF, that's exactly what we did. We stepped in and did take action.

Now, let me run backwards, because the reason I wanted to start with that is to then obviously pose the question. And I now repeat something that I said at the Treasury Select Committee about 3 weeks ago, 3 weeks ago today actually. And for me, this is – you know, I have to be honest with you, this is the – one of the big questions that you know I hope that Dame Elizabeth Gloster will answer, because the record of LCF going right back to 2014 and 2015, bearing in mind that it was one of the firms that came over to the FCA as part of the very large number of firms that came over when the FCA took home consumer credit, the record indicates that between then and the action that I described a minute or two ago that led to the final closure of LCF, between those 2 times, so in that period between 2014 and '15, and late 2018, the FCA intervened using its so called financial promotion powers on 5 occasions in respect to the LCF, and in respect to their financial promotions. So, the big question for me I have to be honest with you is, why did those 5 interventions not have the effect that they should have had? That is a very big question.

Can I also at this point also tackle the ISA question, because that is another important aspect of it, because there's no question also as the record indicates, the history indicates, that LCF's issuance of mini-bonds increased rapidly after it got ISA status. Now I have to be clear here, and this is transparent, because as well as Dame Elizabeth Gloster's work on LCF, the Treasury are also undertaking work in the policy area around mini-bonds, and also in the area of the ISA regime. And the reason I say that is because the FCA does not supervise and regulate the ISA regime, that's done by HMRC. So, the answers to those questions will have to come from that piece of work. But as with the 5 interventions that the FCA undertook, the answer to that question is clearly very important.

Let me now move on to the FSCS, the second question, because just as I spoke about the complexity of the FCA's perimeter, that same complexity gets translated into the perimeter of the FSCS. An important point to make at the start is that the UK has one of the biggest and broadest financial compensation schemes of any country that we know. More things are subject to FSCS protection in this country than are typically subject to protection in other countries. And there are 2 broad forms of protection that the FSCS offers. The first one has to do with where the financial firm is acting as the principles of banks and insurers. And then the protection is linked to the product. If you have that product, you get the protection. If you have a deposit you get a protection, if you have an insurance policy you get the protection.

The second area is much more than the FCA – that first area is much more in the PRA's responsibility, and the second area of conduct is far more relevant to the second area which is – is in the FCA's area where the firms are acting as agents. That's important because the protection – and this is where the UK is much more extensive than other countries – isn't linked to the type of product; it is linked to whether the customer received advice or not. And that

question around how you determine advice is where the boundary of the perimeter is most complex. And that's why the FSCS will have to spend so much time of the question of LCF, and are still having to spend so much time. But it begs a very important question, because if it is so complex, how is it possible to explain it easily to people. And I accept that is a very important question.

So, let me finish with the third question which is to do with financial promotions themselves. Financial promotions are not in their own right a regulated activity. They're an activity undertaken by regulated firms. That might sound extremely technical and bureaucratic, but it has an important meaning for us, because it means that firms are not – regulated firms are not required to tell us they're doing financial promotions. We find out about it. Ms Doherty asked a very good question. To give you some data, between 2014 and last October, the FCA took action on 168 separate instances where they found that the promotions activities were on the wrong side of the line. In the life of LCF, we had a further intensive round of activity and have taken action on a range of other firms, and we have more work in hand.

But I want to finish with 2 points here, which are important. The first one is – and this falls into the review of the policy review – the Treasury's policy review post-LCF. I think it is very important to get to grips with question of financial promotions, which is quite an old regime actually, as to whether it should be a regulated activity, because that way, we would have a better handle on who is doing what.

The second question, the second issue which is related is that one of the things that most complicates the situation there, of course, is that many of these financial promotions take place on the internet, and they are not required as I've just said to be reported to us, we have to find out about them. We are not getting as much assistance from the internet service providers as I would like. I have written to all of them and asked them for assistance, because we are currently having to spend a lot of our time, and we will do this, by the way, spotting where these things are coming up. But there are a lot of them coming up, let's be very clear.

And I would end with this, if this situation continues, I have to say that I would caution people not to buy high yield investments on the internet without advice. If we can't get satisfactory action on this, that would have to be the advice because it is currently a very risky situation frankly.

Charles Randell: Okay, thank Andrew. Now I'm going to take some questions from the floor on this subject, so I would like to stay on the subject of London Capital and Finance, and mini-bonds. So, if you've got a question about that, now is the time to raise your hand and colleagues with microphones will come and find you. So, any questions on this subject, yes? It looks like that's the one down here. There are two questions here. So, if we can take the lady sitting in about row five first. And if you could possibly identify yourself as you ask the question, I'd be grateful.

Alexandra Barker: Alexandra Barker, LCF bond holder, or actually an ISA holder, I never invested in a mini-bond, it was specifically advertised and on my document it says an ISA, HMRC certified. So, I would like to understand in regards to the FSCS compensation, there are 2 broad areas of protection. One is on the product as Andrew has just said, and one on firms acting as agents. Now I have emails from FCA and FSCS stating that my investment was protected before I invested. So, they said if you invest, you are protected up to at the point 50,000 which was the limit at the time. So, I'm confused as how come when we contact the

regulator, you're not giving accurate information about what is protected, but also, clearly, there is no protection of the product in this instance, and in fact I don't believe there is any protection for any LCF product, so it can only be on the advice. Now I never said that I had a phone call with LCF at this point to the FCA or FSCS. Now I did, so I was given advice. But that's beside the point, because I was told by your colleagues that I was protected. So, I'm a bit confused as to how the regulator was unsure of what's protected and what's not.

Charles Randell: Okay, and so you – and obviously, I'm imagining you're the same Ms Barker who submitted the question I read out, is that right? And it seems to be to some extent the same question which is how is it that we don't know and don't give, in your view, the right answers on these questions. It's the same question. I don't know Andrew whether you feel you can –

Andrew Bailey: Well, not, yeah, no happy to add. Yeah.

Charles Randell: If you can add to the answer.

Andrew Bailey: No, no, happy to cover a particular point you make which is that the right thing to do at this stage, which I would hope and expect you've done of course, is to be in direct contact with the FSCS. They have sent out a request for people to put – to fill in a questionnaire; please do that. And of course, if the questionnaire doesn't address your particular circumstances you feel, then I think you should feel very free to please do send the FSCS all the evidence and information that you have that you feel is relevant, because that's by far the best thing that you can do at this stage. Because the ultimate – all these decisions on cover have to be taken by the FSCS.

Charles Randell: So, I think then there was a gentleman sitting two rows further forward.

Nigel Morgan: Hello there, my name is Nigel Morgan, the LCF ISA mini bond holder as well. What I would like to know is, has Dame Gloster been appointed yet?

Charles Randell: Yes.

Nigel Morgan: What will be the timeframe for her to conclude her inquiries, the cost of that, okay, and how long is it going to take before any form of compensation will be paid for this mis-selling of ISA products.

But also though, when going back in previous history of financial affairs, the Equitable Life saga of the year 2000 is still rumbling on. Will this affair be concluded well before that sort of timeframe that's been equivalent to the Equitable Life situation?

Charles Randell: Yeah. Okay. So, I should probably declare an interest as one of the investors affected by Equitable Life, and I share your concern about how long it took. So, the answer is yes, Dame Elizabeth Gloster has been appointed. Since we originally announced her appointment, we have been providing her with documents; she's had thousands of pages of documents. Obviously, she's in the phase of reading into the factual analysis from the documents and planning her review. It's an independent review, so exactly how she conducts it and in particular how she engages with bond holders will be a very important question for her to decide. She and I have discussed the absolute paramount importance of engaging with bond holders at an early stage of the review, and I know that that's up the most in her mind, but I don't want to – well, promise on my behalf how she's going to do that.

The direction that was given in relation to the review mentions a period of 12 months for the conclusion of her review, but clearly the focus is on concluding her review as quickly as possible. And obviously, no one would be happier than me if that could be concluded faster than that out of time limit. But again, it's an independent review, so it's something that I don't think it would be right for me to try and interfere with the timetable of any further.

In terms of compensation, there are 2 separate questions that arise really. The first is – well there are 3 questions. The first is that there are efforts ongoing as I'm sure you know through the administrators, and also work that we're jointly undertaking with the Serious Fraud Office to bring both individuals and assets into the frame with a view to maximising the recovery from this.

The second area is the question of FSCS protection and the determination of whether individual investors contacts with either LCF or other firms that were involved in the promotion chain for these products did give advice such that there will be FSCS protection, and we have been talking – I have been talking to the financial services compensation scheme about how they're going about that and bringing it to a speedy conclusion that's robust, given their rules.

And the third area is then what we – what Dame Elizabeth Gloster's report demonstrates in terms of the regulators own actions and what we will need to do as a result of that afterwards. But I will be confident that we are not looking at the sort of time schedule you're talking about, and that the review should be concluded by next summer. Now, I'd be very happy if it was concluded sooner.

Desmond Chin: Hello. Desmond Chin. What's been said so far about the perimeter seems to raise some wider questions in terms of the FCA's ability to explain the content of the perimeter to the investing public so that they actually understand what they are buying before these problems arise. Because all these things seem to be – things happened, and then you're trying to fix them afterwards. And shouldn't there be a more proactive explanation to people to say, well, this is what's inside the perimeter, this is what's outside, I'm aware of the perimeter guidance because I used to advise on it many years ago. And I think one of the problems is that people on the frontline don't have sufficient training to be able to explain the perimeter well enough to prevent these problems.

Charles Randell: So, again, can I add some personal reflections on that? I think the root cause of the problem that you are referring to is not one about how the perimeter is explained or how people are trained to explain the perimeter. My personal view is something has evolved over time through the legislation that we are subject to that is actually almost impossible to explain, and that is the wrong place to be. For many people in this country, as I think one of the people in the video said, unregulated investments, particularly high-risk investments have absolutely no place in their savings or retirement planning. They are not suitable products for people, and they should go into those products with their eyes much wider open than the perimeter enables them to be at the moment. At the moment, as Ms Barker outlined, there is tremendous risk of confusion either on the part of consumers, or as she challenges, on the part of our staff. So, it's not a good situation, and I will be the first to acknowledge that. Andrew.

Andrew Bailey: Yes. Just to emphasise, the perimeter is complex. Other countries do it in different ways. Actually, as I made clear in the comment I made about the FSCS, one of the consequences of the way that the UK does it is that more is in the regulator area that is often the case in other countries. We do act proactively, and let me give you an example. A very

good example of this is cryptoassets. The perimeter wasn't designed with cryptoassets in mind, because it predates the invention of cryptoassets. So, if you like, cryptoassets sort of land on the perimeter. Some products featuring cryptoassets are inside the perimeter. Some are not. Cryptoassets themselves are outside. If you've got a bitcoin, you are not inside the perimeter. And I did say in December 2017, you know, only buy a cryptoasset if you are prepared to lose all your money, because they have no intrinsic value. It doesn't mean to say they won't have value, but they have no intrinsic value. It is nothing, in that sense. It may have extrinsic value, but it has no intrinsic value at all. You can imagine that got different reactions from different sections of society.

Inside the perimeter, if you were to purchase a derivative, so say a contract for the difference on a cryptoasset, you would be inside the perimeter, and we have recently actually following action by ESMA, the European regulator that we are part of, until at least until Brexit happens, actually banned those, the sale of those to retail investors using so-called product intervention powers, because we frankly think that they are just too risky.

So, we do take action on that front, but to reinforce what I said in my remarks earlier, it is a very complex area and I think we need to stand back and see how we can actually simplify the explanation of it at least, if not the substance of it, because you are right. But where I'd probably diverge from you is I'm not sure it's a case of, you know, if only we had sort of different people, they'd be able to explain something very complex more simply. It is very complex.

Speaker: [Inaudible]

Andrew Bailey: Well, you should come and work again for the FCA again, then. Or come and work for the FCA, if you never have.

Charles Randell: Okay. So, any more crypto questions? So, I'm going to say number 2, which is over there. Good morning.

Speaker: Mr Chairman, my question is a fairly simple one. I'm an LCF pensioner. I've put some investments with them, and that's gone. My question is simply this; would you not accept it to be good advice for tyro investors like myself to look to invest with companies that are FCA-approved? Because that surely implies a certain amount of the standard being reached, regulatory processes, perhaps even surveillance of these companies, and therefore those are the companies to go for. Because if you are not advising people to go with FCA companies, then we are in an open market again. I've noticed that the FSCS has suggested that we will only get money back if we received advice, but I think I'm right in saying many of those 11,000 people who've lost money invested only because the advertisements from LC&F said they were FCA-approved. And I was horrified to hear from either of you gentlemen, I think it was Andrew saying, that you had to contact FCA-approved companies to get information on the products that they are selling. Because if that's the case, what is the point in being FCA-approved, and, by extension, you know, that reduces the ability of the FCA to act on behalf of poor consumers like myself and 11,000 others.

Charles Randell: Shall I have a first effort at that? So, we authorise, as Andrew has outlined, 60,000 firms, and can I give you some examples? London Capital & Finance was initially authorised as a consumer credit firm to do I think consumer credit broking business. It issued a mini-bond, which is not a regulated product. Let me give you another example. The British Gas Group is authorised by the FCA, because some of its boiler contracts constitute insurance

business. It issues financial instruments and we don't – they are not regulated products. John Lewis has – holds an FCA authorisation because it provides credit to its customers. It actually has issued a mini-bond. It's not a regulated product. And I think this demonstrates the complexity of the perimeter question. What is different, I think, between John Lewis and British Gas and London Capital & Finance, is that there is a much closer financial connection. It's a financial firm doing financial thing. And that I think exacerbates the confusion as to FCA – the role of the FCA in relation to London Capital & Finance. Andrew?

Andrew Bailey: Well, I was only going to possibly re-emphasise something I said before, that there is a distinction here between the product and the promotion. The product, as Charles said, is not regulated. Promotions of those products, as I said earlier, are not a regulated activity, but they must be undertaken – the promotion has to be done by a regulated firm. I think that it is possibly the case that for some – for years, this is quite an old regime actually, for years, that regime worked in an environment where there were fewer promotions, frankly, taking place. But as I said, the problem with the promotion regime as it is, is that regulated firms don't have to tell us they are doing it. And there's no question, to come back to my point finally about the Internet, that the scale of promotional activity has taken off. It is now relatively easy to do this, to do it on the Internet. I'm sure many of you probably receive these messages quite regularly. I do. And, you know, it's a stark reminder that the scale of activity has taken off. And so, I have a lot of sympathy with what you are saying, and I think that frankly this element or this distinction between the product and the promotion is not working as we need it to work at the moment.

Charles Randell: Okay. So, I know there are a lot more questions about LCF. If we've got time later in the meeting, let's come back to them, but I think we probably need to move on to some of the many other questions that have been asked about other topics. So, now I'm going to take a few more of the questions sent to us. This time from Ms Grocott. She has asked, the senior managers and certification regime has been applicable to banks for over 3 years now, what is your impression, and what are the findings of how the certification requirements are being implemented and evidenced? I'm going to direct this question to Jonathan Davidson.

Jonathan Davidson: Thank you, Charles, and thank you Ms Grocott. We have actually recently conducted a piece of work to look at how the senior manager and certification regime has been implemented in banks and building societies. What we found was the whole sector has made great efforts to implement the regime and to be compliant with it. On top of that, though, what we're looking for is whether it is starting to deliver a shift in the culture. And what is that shift in the culture? It's from a culture of we just need to be compliant to a culture where individuals at every level in the firm take accountability and we can hold them accountable for their own actions, and they have a sense that they are personally accountable, I would say, it's not in the legislation, for doing the right thing and doing it competently.

So, when I look at the 3 basic components of the senior manager and certification regime, the top component is our leaders, i.e., senior managers, taking responsibility, taking accountability, and we found there quite significant improvements in the sense of senior managers actually saying I know what I am accountable for and I am taking steps to make sure there aren't breaches in my areas of responsibility. You could call it, they are rising to the leadership challenge as opposed to just saying, 'I am only responsible for what I do.'

The second part of it is the certification regime that Ms Grocott has asked about that applies to those people whose actions could lead to significant harm, either to customers or to market

integrity. And there, there is a requirement that firms actually annually assess both are they doing the right thing, if you like, and are they doing it competently. And we have seen a lot of evidence that all firms have taken that very seriously. They have all put in place processes to do that. They are reporting on it.

On the cultural point, I think that my sense is that it's very positive that they've gone beyond an assessment of solely technical skills to look at, if you like, the behaviours and the culture of those managers and certified staff. However, the drawback I think is there are still weaknesses in having what I would call objective criteria that they are using to assess those dimensions so that they apply those assessments consistently. And we will be working with those firms and giving them feedback to improve on that.

The final part, which as you think is often not talked about, that is the most important part are the 5 conduct rules, which are things like you must act with integrity, you must act with due care, skill and diligence. Those two have been rolled out to all financial services staff in the banks and building societies. I think what I'd like to see going forward is a better understanding of frontline staff, whether they are a trader in the trading room or a teller, of what those 5 basic rules mean in their job. But overall, I think there is good progress and there is more to go, and we will continue to work with the banks and building societies to push, if you like, the generation of what I would call a healthy culture where there is a sense of accountability on everybody's part, that it is safe the staff to speak up, and that staff know what good, if you like, looks like and believe it important to deliver on it.

Charles Randell: Okay. Thank you, Jonathan. I'm going to take 2 more of the pre-submitted questions and then we'll have a period of questions from the floor. The next question is from Ms Okuyedi, and she submitted a question as follows; the National Audit Office released a report assessing how well regulators, including the FCA, measure and report their performance in protecting the interests of consumers. So, will the FCA provide any further update in regards to its reporting? How is the FCA going to evidence and demonstrate how they are meeting your objectives and protecting the interests of consumers? Also, how does the FCA intends to overcome the difficulties mentioned in the report? So, I'm going to direct this question to Chris Woolard, our executive director of strategy and competition.

Christopher Woolard: Thanks, Charles. So, as we have said in public, we very much welcome the NAO's report in this area. What it is concerned with this how do we go about the very important business of ensuring that the things we do actually have an effect. So, how do we look back on interventions that we have taken and how do we measure them after the event. And one of the things the NAO's report acknowledged was that we do have an impact evaluation framework already in place which is seen as being one of the leading frameworks among the UK regulators. Following on from the report, we gave evidence to the Public Accounts Committee around this, and again, the PAC acknowledged that we did have a good structured programme in place around this and it was something actually other regulators were looking to learn from. But that's not to say there is not more work to be done in 2 areas in particular.

The first is, for ourselves we want to be sure that this framework and programme evaluations rolls out thoroughly across the work that we do, and there are plans contained and listed in our business plan for this year that give more details of that. The other area is in terms of the other regulators. The NAO highlighted that we don't have a common way of talking about our impact or talking about how we assess what we do together as regulators, and we have already begun

to meet to try to see whether we can get a framework in place around that. So, we met with the other regulators named in the report, so Ofcom, Ofgem, and others working under the UK regulators network. We met back in April. We are going to meet quarterly from now on to try and get a framework in place that can give greater public reassurance.

Charles Randell: Okay. Thanks, Chris. So, one more question in this bunch, and then we'll come to your questions from the floor. Ms Kirkland has asked, and this is following up on the first question that Jonathan and said, given the emphasis placed on culture driving behaviour, is the regulator likely to impose mandatory internal cultural assessments by firms to ensure that the risk of poor behaviour being displayed is reduced? Jonathan.

Jonathan Davidson: Again, thank you very much for the question. The very short answer is no, we aren't planning to require firms to measure their culture. I'll just expand on it very quickly by saying a couple of observations.

First of all, that culture is incredibly important nevertheless. Indeed, we at the FCA believe that culture along with the business model and strategy of firms, is at the root cause of most harm that occurs in the marketplace. And culture is therefore incredibly important. But then there is the question, so the second observation is that it is very hard to measure, because we would define culture as being the typical behaviours and mindsets that are prevalent in any firm. And as we all know, those behaviours and mindsets are like the fingerprints of the firm; they are different for every firm. And we wouldn't attempt to set the strategy for a firm, we wouldn't attempt to set, say, this is your culture, these are the behaviours and mindsets we expect. But also, getting inside people's heads and understanding their mindsets is very difficult to measure scientifically.

However, my final observation is we do completely believe, whilst it may be hard to measure culture, it is eminently manageable; and that firms and the FCA have 4 categories of drivers or levers they can use to manage their culture, and we expect firms to manage their culture. And those 4 drivers that we look at – and we do measure what they are doing on those 4 drivers – are essentially the purpose of the firm, what the people believe and act on that describes what they are there to do, the leadership, often called the tone from the top, how they behave, but also how they make decisions in their senior management regime. Third, what I would call the formal governance, which is behaviour when it is running on tramlines in formal decision-making bodies and risk frameworks and so on. And then finally, all importantly, the incentives but also the capabilities of individuals. So, people, policies. And in supervision, we look at those at all times. Indeed, those components form a major underpinning to what we call the threshold conditions. Unless you meet our standards on the threshold conditions, you cannot be authorised and you cannot remain authorised. So, culture is in the authorisation and it is in our supervision.

Charles Randell: Okay. Thank you very much, Jonathan. So, you've been very patient, and I think we should now take some questions from the floor. I'm going to go to paddle number four at the back, if I may. The gentleman who put his hand up at the end of the last session.

Steve Middleton: Mr Randell, Mr Bailey, Steve Middleton. I find it interesting that you talk about SMCR and rules being complied with. Many people don't realise the FCA are not actually accountable under the SMCR. They seek to comply with it, but they are not accountable.

I appeared last year at the FCA's annual meeting, and I spoke about an interest rate hedging product case, where a GP practice had been sold a £5 million loan that was so toxic that over

the 25-year term, it had a £4 million credit liability attached. Margin credit, applied for in the GPs' name without their knowledge. Had they missed a payment on the swap, the GPs would have been bankrupted. Mr Bailey was very interested in the case. He asked me for my evidence. I gave him all of the evidence to back up my allegations. I further gave him evidence that *** had confirmed to me, when I questioned about the rules on contingent liability being compiled within the review, he had confirmed that firms had to consider the contingent liability in the review process.

I further gave Mr Bailey's executive team and ***, one of his private secretaries, evidence that the internal Project Rosetta files for that case showed that the KPMG reviewer was ignoring the contingent liability, in agreement, he said, with the FCA. They were just treating the contingent liability, this huge credit risk, as an internal credit mechanism.

I asked the executive team to confirm whether *** had lied to me in what he had said or if KPMG were lying to their reviewers to protect RBS. The executive team looked into this case. Unfortunately, however, the GPs ended up having to sell their surgery because they couldn't afford the interest rate costs on this product. They were not allowed to leave the practice, and some were 2 years beyond retirement, and they weren't allowed to die, or it would have broken this swap. The £2 million penalty was paid on the sale of this. They'd already paid out £2 million extra over and above the loan margin. So, £4 million in profit to RBS in a nine-year period on a £5 million loan over and above the margins.

The behaviour in this case was absolutely disgraceful. When the surgery was sold, the executive team actually – well, prior to the surgery being sold, asked if the surgery sale could be stopped. They also instructed the RBS trader not to break the swap. RBS ignored that, broke the swap and charged the penalty. After which, *** came back to me and said, we will not intervene any further and we found no wrongdoing. You had evidence of file rigging in the review. You had evidence of rule breaches, breaking the most serious rules in interest rate hedging practices, and nothing happened. I used to believe that the FCA simply colluded with RBS, both being controlled by HM Treasury, as you are. Now I actually believe that you are instructed by them and you do as you are told, which I think is shocking for a regulator.

So, my questions are; why do the FCA have no mechanisms in place when consumers are ripped off twice over? Once by the fraudulent sale of an IRHP, and secondly by the files being rigged before going into the review. And please don't talk to me about the dispute resolution service. That is setup by the banks to avoid this very issue. Mr Bailey, if you are a man who will turn a blind eye to GPs losing their own surgeries through such fraudulent practices because RBS instruct your team to, how could we possibly trust you to be governor of the Bank of England? Mr Steward is not present here today. What I would have been asking Mr Steward is with the evidence, and clear evidence I have provided about this and other matters such as Mr Bailey misleading Sir Norman Lamb, myself and Mark Wright, about an RBS intranet statement covering market abuse in 2008 that has been covered up to 10 years, and Mr Bailey misled us saying that this matter was in the public domain and had been dealt with, if I provide all of this evidence to the FCA enforcement team and Mr Steward, what action will he take to investigate the chief executive and the executive team?

Charles Randell: Okay. I'm going to pass this to Andrew, obviously.

Andrew Bailey: Well, you raised many points there. Can I start with the last point you raised, because I've answered this point many times in relation to the reference to the RBS statement

which you refer to. I have pointed you many times to the reference in the Treasury Select Committee hearing of around about 10 years ago now, where the statement was referred to. I have referred Sir Norman Lamb many times to this statement, and every time you choose to ignore it. And I'm not going to say it any more. It is there on the record in the Treasury Select Committee transcript. If you wish to ignore it, that is your choice, but I am afraid I can't go on any longer pointing to a fact and having it ignored.

Now, let's go to the GPs surgery, because that is actually a much more recent and substantive engagement we've had. And as you've said, you raised this at this meeting last year, we've had quite a lot of extensive follow-up, my team, as I have talked to my team about these things most days, have engaged with you very substantially on this. You've sent us quite a lot of information, we have reviewed it. It is simply untrue that we are in league with RBS. There is no evidence that you can produce to support that. We looked at the case, we have been through it, we have insisted that RBS go through it. We did reach the end of the legal route on that. But what I would say, and Charles may wish to pick up on this is that in the case of IRHP, there is now going to be the lessons learned review that we have said for some years that we would hold on IRHP, and you are welcome to put any evidence into that you wish, particularly obviously in relation to the FCA. So, I might come back to Charles. He might want to say a bit about that review.

Charles Randell: Yes, so, we've appointed John Swift QC who is a very experienced Queen's Counsel with regulatory experiences well to conduct an independent review into the actions, regulatory actions taken by the FSA and FCA around interest rate hedging products. So, I do encourage you to engage with Mr Swift. I'm afraid I think that whilst you have – sorry, whilst you have very strong feelings on this subject, and I'm aware that you have frequently corresponded with Andrew's office about it, I don't think it's something that stands any chance of reaching a resolution in this meeting, and so I'm afraid I think we'll have to end the discussion there and come to paddle numbers three, the gentleman down here.

John Guidi: Good morning ladies and gentlemen and the Financial Conduct Authority. John Guidi's my name. I'm from Glasgow. I'm 63 and I am bankrupt. To use Mr Bailey's words, I'll go back a little bit. In 17 March of this year, I entered a hunger strike to protest against the sale of toxic loans sold to me by Clydesdale Yorkshire Bank who then proceeded to sell them to an unregulated and unlicensed American vulture fund, Cerberus, who indeed asset stripped all my companies, and they are about to evict me from my home of 30 years. The bank engaged me on the 17th March and said that it would look at my case. As of this date, 4 months on, I have no, absolutely no resolution to that, Mr Bailey, and I need to bring that to your attention today. My question is twofold. What assurances can the Financial Conduct Authority give me that notwithstanding the Senior Managers Regime and reporting of such and indeed the new DBRS scheme for small, medium enterprises that is being discussed as a resolution, what assurances can and the Financial Conduct Authority give me that in fact enforcement action which I believe is the only thing that the banking industry will in fact set up and look at, where they are penalised for acting what I believe incorrectly?

My second question is, the regulatory framework is indeed very opaque. But my question to you is I took loans with a United Kingdom bank. I gave a personal guarantee with our United Kingdom bank and, indeed that United Kingdom bank is subject to a compensation scheme that we are all well aware of and that Mr Bailey alluded to quite rightly as being very extensive. However, that same bank was allowed to sell my loans, my personal guarantee nor my

securities to an unregulated, unaccountable private equity firm that is based not in Britain but, in fact, in Ireland. And, indeed, on those 2 points, I would ask the committee for their help because for me, I am truly at the end of my tether and at the end of my road. Thanks.

Charles Randell: Okay, thank you for that question. Andrew, I'm afraid all the questions –

Andrew Bailey: Yeah, I will – no. So, Mr Guidi, and I am, yeah – I very much regret the situation here and I hope, as you remember, I did intervene on your behalf with Clydesdale because I recognise that your personal situation was such that there was no question that whatever the – to be honest with you – whatever the regulatory framework, you know, the bank needs to sort this out. I am happy, I will intervene again to find out what is going on. But I did intervene at the point, particularly at the point when you were, as you said, contemplating beginning your hunger strike. I took that very seriously.

There are a number of difficult facts in here, but, I think, you know, there is a way through it, I hope. First of all, I have to come back to the perimeter. I am afraid, obviously, the origin, of the original loans were outside the perimeter. That does limit the scope for action. It does mean that the scope for enforcement action because this also predates the Senior Managers Regime is much more limited. Had it happened now, the scope would be much greater because the Senior Managers Regime covers all the activity a firm undertakes, irrespective of whether it's regulated or not.

However, let me finish with 2 points. I very much intend, and I have said many times and I said actually in the context of your case, you refer to the circle of DBRS scheme which is the scheme that has been put together by the banks and representatives of groups of borrowers, that that will be a scheme which can independently and appropriately and fairly deal with cases like yours. That is the best place. My view, I have said it before but I am happy to say it again, yours is a case that should go there.

A final point and I am sorry to have to say this but, again, I have to make a point about the law. I am afraid the law of this country does allow loans to be sold. We cannot stop that happening. You may feel that is the wrong law but that is the current position.

Charles Randell: Okay. So, can we take one more question? Paddle number seven over there. Sorry, my mistake, paddle number one over there.

Jonathan Staward: Hi, good morning. Jonathan Staward. I have got a question more broadly around consumer credit and a couple of points that cropped up in themes this morning, both your perimeter and problem debt that you referenced in your video at the very beginning. Present FCA regulates debt management, debt collection agencies but, obviously, the insolvency sector remains outside of that, I think, in particular about IVAs. What discussions or plans are you going to share with us either in terms of collaboration with the bodies that regulate that sector or any plans for the FCA to get their arms around the insolvency sector so it can assure a consistency for problem debt consumers?

Charles Randell: I might send this, Chris, your way because it is a policy matter.

Christopher Woolard: So, I think, a couple of things so there. I mean, firstly, obviously, as the video start alluded to. We have had a lot of activity in the last 18 months directed at the high cost credit sector in particular, and very much around trying to remove, actually, several hundred million of detriment each year that consumers have been suffering in that particular space. You are absolutely right in your characterisation of this space, though. So, there are

areas where we do regulate, particularly around some of the debt management agreements and, indeed, there is a group of firms that came into our regulation about 4, 5 years ago as a result of the changes the Government made.

On the insolvency side of the house, the Insolvency Service exists to regulate insolvency practitioners and the arrangements that were entered into there more broadly; and, obviously, you know, there is parts of insolvency law quite separate to the areas that we regulate. We do have a regular dialogue with other agencies that are involved in this but there are no plans right now, I think, from government or ourselves to change that regulatory settlements that exist at this moment in time.

Charles Randell: Okay, so question number 2 just down there.

Nicholas Wilson: Nicholas Wilson, otherwise known as Mr Ethical. A lot of talk about protecting consumers today. Everybody in this room knows the realities – you exist to protect the banks. We had a meeting 2 weeks ago and last week you publicly announced that you have found another 18,500 debts from HSBC with illegal charges added to them. I gave you 2 years ago, evidence of 500,000 debts which have that on. Can you explain to the public why I have more records than HSBC, the Ministry of Justice, the Solicitors Regulation Authority and 2 firms of solicitors?

Charles Randell: Okay.

Andrew Bailey: Mr Wilson, well, of course, it is true, you and I did meet and we've corresponded, actually, including yesterday on the subject. Let me make 2 points. First of all, I said to you yesterday, and I don't think it's the first time I said, the number of people who will fall within this redress process will be governed by the evidence. There isn't a fixed limit, never is with our processes. It will be driven by the evidence.

I can't, I am afraid, explain why you have got more evidence than anybody else because I think you are the best person to explain that because you know how you got the evidence and I don't dispute it. I mean, it is excellent that there is as much evidence as there is. What you are aware of, I think, is that we have been in close contact with the firm. The firm has broadened its approach to say not only that it will take into account evidence that customers bring forward but also it will start with, I think, to use the precise word, their recollections.

Now, we will also insist on a process which takes all other evidence into account, including whatever evidence you bring forward. I can assure you of that. So, there is no difference, I really think between us in terms of what we are trying to achieve. We are trying to achieve a process that comes out with as much redress as should appropriately be the end product. It will be driven by the evidence. I think it's appropriate, particularly, as you've rightly said, that this is now quite an old issue. The definition of evidence is broad because it is unreasonable to expect people to have precise records from that time; and I welcome that fact. So, I know that, you know, we do not agree on this at the moment but I do want to reiterate that I think actually you and I are both heading in the same direction.

Charles Randell: Okay, and I think, what we should actually do now is to take a few more of the pre-submitted questions and come back to some more questions from the floor in a little while because the next bunch of questions I would like to move on to relate to RBS's Global Restructuring Group and also the HBOS Reading case. So, we will start with the pre-submitted questions which has been submitted Ms Jimaotero and then move onto other questions from

the floor in this area. So, the question from Ms Jimaotero is, what would constitute criminal behaviour where RBS and its GRG unit is concerned? Andrew, one for you.

Andrew Bailey: Yes, I probably should explain that as Mark Steward cannot be here today, I am also taking enforcement questions. So, Mark would probably normally answer this question but I am happy to do so, and to answer in the particular context of GRG in this context. It really comes back to a point, I think, I made in response to Mr Guidi's question, actually, which is that there has, of course, been an important change in regime in recent years from what was called the old approved person's regime to what is now the Senior Managers Regime. And the reason that is important is because the test in the approved person's regime was one of what I call culpability. The test in the senior manager's regime is one of responsibility. That is a big change, in my view, and a big step forward. It is a very, very important development. But we cannot apply the senior manager's regime retrospectively and that is, of course, something Parliament does not do and it will be inappropriate for us to do that.

So, the test in the GRG case is the approved person's regime test and it is, as I said, in essence the culpability question and as we lay down and set out in the report that we published a month ago, the test is interpreted as was there demonstrable intent by the senior management to undertake the activities that we agree – and point was made by the independent reviewer – were systematic and to the detriment of the consumer, of those affected. However, I have to say that the evidence which we went through extensively, our enforcement team went through extensively, which we have external counsel independently review for us as well, did not cross the hurdle of intent under the approved person's regime. That would be the test of criminality.

Now, the senior manager's regime, just to make the point again, finally changes the, if you like, the position of the bar but we cannot use that regime retrospectively.

Charles Randell: Okay, thank you, Andrew. So, can we now take some more questions from the floor in this area of RBS GRG small business lending and HBOS Reading and so forth? So, I think, I will come first to paddle number three, the gentleman sitting three rows back here.

Speaker: Hello, Andrew, nice to see you again. My question strikes at the core of regulation. For the public here, would you please explain the process undertaken by the FCA when assuring applicants, the people apply for a banking licence are proven to be acceptable? Deposited funds are a risk, so how do you assess character, ethics, morals, integrity and transparency of the applicants? Many of the firms permitted a banking licence or a stock exchange listing have been fined. Why are the chairman and boards still in place? Surely a fine equates to a crime and the banking licence and stock exchange listing should be suspended until the chairman and boards are replaced.

Andrew Bailey: Well, I can start on that one. Jonathan may well want to come in because it crosses over to a question that he has in some ways already addressed, but let me come to it.

So, we have a fitness and propriety test and, of course, that fitness and propriety test has to be observed at all times, so it is a continuous test. And if we concluded that there was sufficient, serious misconduct, we would act on the fairness and propriety test. So, that is our test. We do use it and we use it in 2 ways. We use both, what I might call, at the gateway. So, there are people who are put forward for senior management positions, who do not make it through that test either because they withdraw as the process goes on or because the conclusion of the processes is they are not appropriate. If we use it subsequently after they

become approved, then it requires us to go for an enforcement process. We can do that and there is a whole set of legal tests surround that and we can do that.

The second point I make is, you refer to them as stock exchange process and that I would characterise as, there are, of course, a set of rules that exist out there governing directors. It is particularly in a sense relevant to companies that have become insolvent where the directors then can be disqualified. It is not an FCA regime. It is run by part of the government. And the only observation I make is one that I have made before but I will make it again, is that in my estimation and I have been around quite a long time, the use of that regime has declined over the years. I cannot explain why that is the case to you because it is not a regime that we run. I can tell you that my experience of this world goes back quite a long way. I remember well the case of the failure of the Barings Bank when there were disqualifications of directors that followed from that, that was not a practice that was done, repeated in the financial crisis and, actually, I am afraid I cannot explain to you, you know, the evolution of history. It is not an FCA responsibility. Let me hand over to Jonathan.

Jonathan Davidson: Thank you for the question. I would like to just add a couple of things. With respect to the banks, the approval of senior managers is jointly between us and the PRA and we take what I will call a proportionate approach. If it is a large institution with a senior role, we will do a large amount of due diligence which will also include interviews where we will put matters that are of concern to us to the individuals. In many cases, we conclude at the end of that interview and our due diligence that individuals are not potentially fit and proper and communicate our concerns and the individual in the firm has the right to a second interview which is recorded and then after that, we can make our decision.

It is important to observe just like any other, this is not just natural justice, there is legal justice in it. There is a right of appeal. There are higher forums, independent forums that people can appeal to and they on occasion do. So, that is, if you like, at the gateway, at inception.

Since we implemented the Senior Managers Regime, we particularly intensified our supervision of the largest banks. We meet with them regularly in a programme of proactive supervision which includes meetings with senior managers where they are called upon to explain how they are discharging their duties and how they continue to maintain themselves as fit and proper. It is like an interview again, and we regularly convene to discuss whether the firm and the individual continues to meet threshold conditions because those are the minimum standards for authorisation as a firm or an individual and it is not just at the gateway, it is on a continuing basis.

Charles Randell: Good. So, can we take some more questions? I am going to go to the paddle at the back number four. Will you come down here?

Neil Mitchell: Mr Randell, Mr Bailey, Neil Mitchell. As you well know I am a leading RBS campaigner. I have got a very straightforward question for you. For the record, Mr Randell, Mr Bailey, can you confirm or deny, if you have been notified formally or informally, of any criminal complaints, criminal investigations, intelligence scoping exercises with specific regard to RBS GRG in which you are both personally named?

Secondly, given Mr Randell's constant referral on the importance of transparency and the accountability of the FCA, can you explain to the viewing public why when I launched the judicial review of the RBS GRG process of the investigation, just the process, that the FCA

mobilised the Head of Chambers at the most expensive QCs Chambers in London, other QCs, an entire legal team, excess cost in a six-month legal process to stop the judicial review? Now, for those that do not understand, the judicial review is simply having an independent person review our process. It is not a claim, there are no financial consequences but you went at that process for 6 months as if your lives depended on it and as if you were fighting to the death and you needed that closed down. For a regulator, if you have nothing to hide, why can you not simply allow an independent judge or reviewer to simply review the process?

Charles Randell: Okay. So, if I may just check that I have got your first question because it is important that I am very precise before I answer it because I think it was directed to me. I think what you asked me was am I aware of any criminal proceedings against RBS in which I am named. Did I get that correct?

Neil Mitchell: Yes, you did indeed.

Charles Randell: Okay. No, I am not aware of criminal proceedings against RBS in which I am named.

Your second question was about your judicial review application against the FCA which I think was declined at what is called the permissions stage. So, that is the first stage before it gets to a formal hearing. There is a two-part test for a judicial review. A judge has to consider that it is fit to go to a full hearing and then the second stage is the full hearing. And if I am right, I think, it was declined at the first hearing. May have got that wrong.

Neil Mitchell: Actually, no it wasn't. [Inaudible]

Charles Randell: And the judge decided that there would be an oral hearing on the permission stage, rather than doing it on paper, which I think is correct, and decided there wasn't sufficient case for the FCA to answer and, I am afraid, I think, ordered cost against you which is unusual in these cases. So, I think, that probably answers both of your questions. I don't know if there are any other aspects of the question that I should answer at this stage.

Neil Mitchell: I just want to correct you. I withdrew the application to enable the FCA to publish the second stage of the report because your press team was off the record briefing journalists who helped me by telling me that you are blaming me for the further delay in the publication of the report which you had told the Treasury Select Committee and journalists in February would be published by the end of the month. It took until a few weeks ago. I have been through the application to force the FCA to actually publish a report you have been sitting on for a long time.

Andrew Bailey: So, Mr Mitchell –

Charles Randell: I will pass to Andrew because I am afraid I do not –

Andrew Bailey: So, I am afraid it is completely untrue that our press team was briefing on that basis. I have explained to the Treasury Select Committee the reason that there was, as you rightly say, a delay in the publication report from the original estimate we gave; and that was because there was an issue around whether we named individuals in the report. Now, if you refer to the transcripts of the Treasury Select Committee, that point is explained.

Can I just add on this point you raised about your own legal case? If I remember rightly, I think you withdrew it on the morning of the hearing. Obviously, you can do that but I think the judge then determined that it was reasonable to award costs to the FCA and that was what the judge

did. It was not actually the FCA, of course, that awarded costs to itself. It was the judge that did it.

Charles Randell: Okay. I am looking at the time and I think we should move on to some questions that have been pre-submitted by people who have done that. Can I take a question from Mr Gore which was submitted to us the FCA suggesting that regulated funds inform their customers precisely what the implications of Brexit are and what they will have to do. It is not at all clear that anyone, not even the government can make a categorical statement at this stage. So, can firms go further than generalised comments? So, I'm going to pass this to Nausicaa Delfas who is our Executive Director International.

Nausicaa Delfas: Thank you, Charles and thank you, Mr Gore. First of all, it is important to remember that overall, for customers in the UK, very little will be changing. Our approach has been to try to ensure as much continuity as possible and that the UK remains open for business. For customers in the EEA, their position will depend on the arrangements that their firm has put in place and the operation of local law. And we are aware that many firms and many EEA authorities are taking steps to ensure that customers can still be serviced if they are in the EEA. However, in the event that firms cannot operate or they have to make changes to their business, we expect them to notify their customers in a clear and timely way. And, obviously, firms are best placed to understand what their business entails and the needs of their customers. So, we have put out a little information on our website and explained that firms should consider what changes they might need to make to the business and what their customers' needs are and communicate to them accordingly.

Charles Randell: Okay, thank you very much, Nausicaa. I will take one more pre-submitted question and then, I think, that will leave us some time at the end to go back to questions from the floor. I am sorry, I am chairing this meeting, so please respect that. So, I am going to take a question that was pre-submitted by Mr Allan who says it would be interesting to hear the latest on operational resilience within the financial services sector and I am going to direct that to Megan.

Megan Butler: Thank you, Charles, and thank you, Mr Allan. The first point, I think, I would make is that we are seeing an increase in the number of incidents being reported to us. From year '17 to '18, we had 229 incidents being reported to us that connect to breaks of operational resilience. In '18-'19, it was 916 and we see that as an increasing trend.

Now, I would not read too much into that because we, actually, think that is not to do with increasing number of breaks, it is much more to do with increasing reporting of those breaks and the change in the reporting regime. What is, perhaps, more interesting in through that reporting is we are seeing a change in the nature of the incidents being reported to us. There has always been a substantial number of – and, indeed, the vast majority of incidents come through described in broad technological context as opposed to, perhaps, cyber, and we are seeing that as an increasing proportion. So, we are seeing technological causes of operational resilience failures. And within that, we are seeing hardware and software failures becoming increasingly important.

Now, again, that is perhaps no surprise given what we see in terms of the technology change in this industry and the increasing use of software to deliver services. So, alongside that, we also see change management and problems around change management figuring fairly large and

also appropriate oversight and failures caused by third-party suppliers figuring quite large in those reports to us.

That's consistent with what we see from firms' own views of where they see risk in this area. We published some data around this at the end of last year and, again, I think, that's consistent with what we continue to see. Firms call out problems relating to the identification of key assets in the context of cyber as being quite complicated for them. They call out risks around change management in an era of increasing needs for speed and increasing complexity, and very much they call out the risks associated with third-party suppliers and the risks to move into the cloud where firms clearly are struggling still to decide what is safe to move, who to use, how to monitor and how to think about exit from any of those things.

Now, all of those are matters that we actually discussed in a discussion paper that we issued jointly with the Bank of England and the PRA this time last year which was a document designed to start the discussion on how to strengthen resilience in the financial system as well as within individual firms. That paper discussed how to prevent failures, how to respond to failures, how to recover from failures and how to learn from failures. There has been ongoing discussion and the important point to note here, there is going to be a consultation document issued jointly by ourselves, the Bank and the PRA in the autumn which should seek to start the conversation about what the rules or outcomes framework should look like.

Charles Randell: Okay. So, I am going to stop taking further pre-submitted questions at this stage and come back for the rest of the meeting to questions from the floor. I can see there's a gentleman down here who is very keen to ask a question. So, please go ahead.

Trevor Mealham: Thank you, Mr Randell, Mr Bailey. I am member of a group representing Lloyds BSU victims at Bristol. Our group claim at the moment stands at 1.8 billion, it is growing by the day. One of our victims sadly phoned me yesterday to say that her child has been in hospital following the loss of their house due to fraud by Lloyds Bank which aligns with the 2006 Fraud Act. That child is now out of hospital and self-harming. With criminal fraud appearing as part of the HBOS and Lloyds Banking Group's income flow using forged signatures and forged documents to asset back securities fraud, in particular HBOS [inaudible], HBOS Reading, HBOS Integrity which was not Ian Stamp's fault and HBOS Lloyds Bristol. Some names appear more and more commonly to be going from HBOS to the FSA and from the FCA to Lloyds and large auditors, names such as James Crosby, Andy Hornby, Tom Spender, Hector Sants; also the many names that have been redacted which we have got copies which have been unredacted in the Lord Turnbull Report which shows the Lloyds board covered up £40 billion worth of fraud.

I also know that the banks do not update their originator's charge and use it as a fraudulent instrument at Land Registry in abuse of the 2002 Land Registry Act. This is a bigger Ponzi and bait and switch than the Madoff scheme using abuse of SPVs, SPEs, promissory notes to do fraud in line with the 2006 Fraud Act. Many of us have *mens rea actus rea* evidence. Is it not now the time that the Securities and Exchange Commission, the SEC, are called in or will the FCA continue to be complicit appearing as nothing less than a big sister company to Lloyds Banking Group? When will the FCA gain some teeth and look into the consumer rather than the banker's mafia? In addition to that, Mr Randell, Mr Bailey, I have evidence here and statement with a retired CID police officer of perjury by Lloyds Bank's barrister and one of their bankers at BSU where they have pulled them from a court case to save cross-examination. I would like to

present that to you and support me in seeing that the banker and the barrister go to jail. Enough is enough.

Charles Randell: Okay, as you know, there are a series of allegations that there was signature fraud in the enforcement processes conducted by a number of banks which have been forwarded to us, among others, by the chair of the Treasury Committee. Andrew, I think, I'll come to you.

Andrew Bailey: Yes, so, thank you. Mr Mealham, wasn't it – yeah. Thank you for that. So, let me outline. I think there are 5 things that are going on at the moment that address your concern. Let me start with forged signatures. So, Charles has already said we will investigate any evidence around forged signatures. So, obviously, we will take – this is evidence, so we will take that. Any more evidence you or, indeed, anyone else has got, please send it to us. No question about that.

Speaker: But I have done that –

Andrew Bailey: Yup.

Speaker: – but it doesn't seem to work.

Andrew Bailey: No, that is not the case. We will, of course, investigate this. Secondly –

Speaker: [Inaudible] investigate. I say [inaudible] –

Charles Randell: Sorry, can we please stop? We cannot –

Andrew Bailey: I will ask him to stop. Well, I will answer Mr Mealham and then we will come –

Charles Randell: Sorry, a lot of people want to ask questions and are biding their time.

Andrew Bailey: Yeah.

Charles Randell: So, can we please not have people shouting from the floor? Andrew.

Andrew Bailey: Yes. Secondly, we have a remaining investigation on the way. You may know that we have recently completed an investigation and there has been a financial penalty in respect of HBOS and the Reading case. We have a remaining investigation in terms of senior individuals at HBOS, which I hope will be completed soon. Third, any evidence that you have in respect of Lloyds handling of any cases related to HBOS Reading but also, as you rightly pointed out evidence around any other officers, particularly in respect of Lloyds, you should deal with the review also being undertaken by Dame Linda Dobbs. And if you want me to help you put you in touch with the Dobbs team, I can do that. Happy to do that.

Thirdly, there has been further investigation by us and by other authorities, I should say, around allegations that officers beyond the Reading office were involved in fraudulent activity. As you know, obviously, the Reading affair resulted in a criminal trial and there are people in jail. Any further evidence on that again, you know – I know we are in correspondence quite regularly but if you have any further evidence, do send it.

Fifth, as you may know in respect of Reading and the HBOS end of Reading, Lloyds undertook a process led by Russell Griggs in terms of redress for those who were victims of it. But we have also been involved – I have been involved – in the appointment of Sir Ross Cranston who is now undertaking a review to ensure that in the words, I think, of both the Economic Secretary to the Treasury John Glen and I, view that there is public confidence in our process, and that

process led by Sir Ross Cranston is underway. So, those are, I think, if my counting is right, 5 things that are underway at the moment.

Speaker: No, we are not accepting that. You know, us Lloyds victims, there's over 3,000 victims now, that's fob off. You know, there is evidence of criminal fraud. We've got the *actus reus*, we got the *mens reas*. I was the senior stakeholder consultant to HMRC and Treasury and I know damn well what fraud is and this is criminal fraud.

Andrew Bailey: Well, give us all the evidence you have.

Speaker: This 2006 Fraud Act. We have got people at Lloyds. We have got –

Charles Randell: We are running out of time so can we come to –

Speaker: Sorry, sorry. This is –

Charles Randell: No, I am very sorry. I am afraid that you cannot dominate this meeting. Can we come question number 5? Thank you.

Speaker: Well, [inaudible] we want it addressing.

Charles Randell: Yeah, and we have got that. Thank you.

Speaker: [Inaudible].

Charles Randell: Okay, gentleman over there number five.

Keith Webb: Thank you and good morning. And my name is Keith Webb and I am a Director of Business Risk Consulting at Xcina Consulting and my question is related to operational resilience. I work with clients about operational resilience. I am very well aware of the very good joint discussion paper from last year. I have also been aware of other speeches by regulators such as the EBA in September last year on the same topic saying how important it is. So, my question is should we be expecting greater coordinated international focus or coverage on operational resilience, perhaps a shared set of common standards, to help firms enforce what they need to do?

Charles Randell: Okay, I am going to pass this to Megan who answered the original question about operational resilience.

Megan Butler: Yeah, thank you Mr Webb for that. I think, the short point is you are quite right. There is a great deal of international work going on around this. Lots of different regulators are coming out with views on this. It is an obvious area where the more regulatory coordination we can achieve, the better. For a lot of firms who operate cross border, having multiple different sets of standards leads to very poor outcomes for everybody. So, yes, I think, absolutely, we remain very focused on trying to operate in this area in a joined up and coordinated way and you should expect to see more of that coming down the track.

Charles Randell: Okay, so we have got time, I think, for one more question. Number 4, can we take?

Mark Wright: Yeah, Mr Bailey, Mark Wright here. I just want to very briefly go back to the statement you mentioned that has been in the public domain for over ten years now. Is there any chance you can give a copy to myself so I can share it with the hundreds of thousands of staff that were thrown under a bus by Chris Sullivan and the market abuse on 17 September '08 stating the Group was well capitalised when there was a bailout going through? And if you

could possibly send a copy, and will you just state – because the Treasury Select Committee have already stated that this has not been in the public domain?

Andrew Bailey: Well, what's in the public domain, as you know, is the fact that it exists. Let me come back to you on that. I think, you know the history of it but I take the point very seriously, Mr Wright, and I will come back to you on it.

Charles Randell: Okay. So, I think, as the time is now moving to noon, I am going to have to draw the meeting to a close. There are an awful lot of people who I know have questions that they would have liked to have asked, obviously, if we – we would have to go on for several hours, I think, in order to get to all of your questions. But those of you who have taken the care to pre-submit questions to us, will receive answers to your questions on our website. And I think this demonstrates the need to address those questions on the website. And so, I was going to thank you all for coming and to acknowledge and – right, I am going to call the meeting to close. Thank you very much. That is the end of the meeting. That is the end of the meeting.

[END OF TRANSCRIPT]