FCA Annual Public Meeting 2016

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FCA Third Annual Public Meeting

Q&A session

John Griffith-Jones: Andrew, thank you very much indeed. If I may, I would like now to ask my colleagues to come and join me on the stage? Thank you.

I think the names are behind me, but just so you can put names to faces, on my extreme right is Ruth Kelly who is the new Chair of our Audit Committee. On my immediate right, Jane Platt, who is Chair of our Risk Committee, both along with myself, Non-Executives. And Andrew needs no introduction. Jonathan Davidson, Head of Retail Supervision and Authorisations. Chris Woolard who is Director of Strategy and Competition, and last, but no means least, Georgina Philippou, who is our Chief Operating Officer. The aim of the game of course is to get the right question to the right person with your help.

We have until about 12.00, and my earnest aim is to get through as many questions as we can in that time. We will try and do that. We have received a lot of pre-submitted questions, and I am aiming to handle as many as these as is possible as well as allowing time for some questions directly from the floor. Some people have expressed an indication that they would like me to read out their question on their behalf, which I will do. Others would like to stand up and ask their question themselves, which is obviously fine also.

In order to make this work as smoothly as possible, I will try and indicate where I am going to go next to give questioners a chance to prepare, enable the microphones to find the right person, etc. It would be, as is always the case with these sort of meetings, a great help if you could keep your questions reasonably short and succinct and, by the way, a similar plea to colleagues on this side of the house with regard to the answers. I can assure you that if we do not have time to take pre-submitted questions today we will publish a written response to those questions on our website.

Finally, just before we get going, we have microphones in the room. There are people with paddles. Perhaps someone could hold up one of the paddles? The cunning plan here is if you would like to ask a question when I indicate we are going to go to the floor, you raise your hand and someone will come. If you could wait for the microphone to get to you that would be very helpful.

Okay let us start, and the first topic I really would like to cover is the referendum because I have just received really quite a few questions on that. Andrew and I have already said some words so we may get through this piece reasonably quickly. Let me turn first of all to Roland Baker, if I may, to ask his EU question? Mr Baker?

Roland Baker: In the light of the decision by the UK to leave the European Union, how does the Financial Conduct Authority intend to liaise with the Bank of England and regulate financial services? For example, will the variable pay cap of 100% remain, and what are the future of CRD4 and Solvency II?

John Griffith-Jones: Thank you very much. Let me read out three others which are also on the EU. Patricia Horsfall asked, 'Should UK firms continue with regulatory implementation projects as normal? For example, MIFID II?' Michael Bartholomew has asked, 'What changes can we expect to the FCA's regulatory approach following Brexit?' Amir Bhatti asked, 'Is there

likely to be deregulation if the UK leaves the EU?' Andrew, can I turn to you as questions as a whole?

Andrew Bailey: Yes, and I think I can develop slightly the remarks that both John and I made in our opening comments. We are working, and will work, very closely with the other authorities, that is the government, the Treasury and the Bank of England, on all the issues concerning what happens next, as it were, in terms of the UK settlement following the referendum. Of course, the government, as you understand, is in the lead on this. It is not for us to determine what approach the UK takes to that. However, it is of course for us to provide, as we always do, technical assistance, which we will do. It is for us to work out what the effect of the choices that are made will be on our regime. We, I should say, are already organising ourselves to do that. We have established a unit within the FCA which will act like a hub to help us to guide us through all that work.

In the meantime, to take Mr Baker's question, as both John and I said, the current rules, whether they come from the EU or not, remain in place until such time as anything changes. That means that even those, what I might call somewhat *causes célèbres*, pieces of European legislation – and I should say as a general matter, they tend to be the tail not the dog, if you do not mind me saying so. If you take the bonus cap, which Mr Baker mentioned, they remain in place. What happens next in terms of those will depend on the outcome of negotiations, and will critically depend on equivalent standards.

Turning to Ms Horsfall's question, in that case then the implementation of regulatory projects such as MIFID II will continue. That will continue for two reasons. One is because we remain a member of the European Union until we are not. However, also because much of MIFID II is actually things that we would want to have in UK legislation and in the UK regulatory system anyway.

I think then moving on to the third question, the changes that we can expect, as I say, will have to follow from where the government and the inter-governmental negotiations reach. We cannot determine that yet. We will provide assistance to those negotiations but it is not for us to determine them.

Then I think really the same answer to the last question on deregulation. Honestly, it is important to say this is not, I think, going to lead to a bonfire of regulation. There will be different views on that obviously. What actually will come out critically depends on the settlement the government reaches. I would say in an area like financial services critically then depends on how equivalent standards work to allow trade. Those equivalent standards, by the way, operate more in the wholesale markets than the retail markets. More of retail regulation is domestic. Passports operate less in retail, but in wholesale it is inherently cross-border.

John Griffith-Jones: Thank you Andrew. Can I just ask the floor, anyone who would like to ask an EU-related question, if you could indicate? I have got two more that I am going to read out. If you indicate whilst I am reading these out then I will come to you and take them and we will deal with a composite answer. Then I promise you we will move on to other topics.

In the meanwhile, Tatiana Rozoum has asked, 'Youpass Payments Europe Limited is a start-up in financial technology. We are authorised as an electronic money institution and thanks to passporting we are able to work in 28 countries of the European Union. Because of the decision to leave the EU our business model may be seriously affected. We are deeply concerned by the evolution of the regulations around financial services and would like to ask if the FCA plans to

do anything to help the firms reorganising, and will you in particular organise meetings or conferences for fintech firms?'

Damask Smith has raised a number of EU questions, too many for me to read all of them out but let me just take two. First one is, 'What is the FCA's plan for Brexit negotiations and how will this work impact on your day-to-day resource and management of the FCA?' and, 'Will work on Brexit change the scope and scheduling of supervision activity over the next few years?' Now let me just take this question here that would be good.

Oliver Lodge (OWL Regulatory Consulting): There is a small but persistent omission in the observations from the FCA in relation to European measures, and that is that both in your press release and in all your comments so far today you have not mentioned EU regulation. EU regulations per se will presumably fall away the day that we leave the EU. Can you give us some sort of idea as to how the FCA anticipates dealing with that?

Andrew Bailey: I will take the last question first and then I will work back through. This is a very good point, that EU law in the broadest sense of the word comes in broadly two forms. One is regulation which is directly applicable into the UK, which I think is the point you are making. One is made in directives which is then actually implemented into UK law and actually therefore is UK law. As the questioner rightly says, if there comes a day when EU membership falls away, as we expect, one part of EU regulation will remain, because it is in UK law. What happens to the other part, which is direct regulation? If anything the EU has shifted in recent years to having more regulation and less directive.

I think the answer to that is it will depend on what the settlement is. I would imagine that the government will make some provision for ensuring that there is not a gap, and it will have to make that provision in UK legislation in some way or another to in effect fill that gap. I agree with you. The fact we have not mentioned it, I should say, we agree with your observation. We have not sought to mention every point. It is a point, but I think it is a point for the government to have to address. I know that they are aware of it because we have discussed it with them.

Starting again at the beginning with fintech, a couple of comments. First of all the question nicely illustrates that we sometimes talk about 'the passport'. In fact there are many passports, because every piece of legislation has its own passport, and they are a bit different. I think the question also very helpfully illustrates the fact that many firms in the UK want their passport, and want to ensure that the regime preserves it. Quite sensibly so because trade is a good thing. Fintech is a good example because Chris Woolard, who is just down here, has already had discussions with fintech firms about this and we will be doing more of that. It is part of our commitment to our contribution to facilitate those discussions where we can best do that to ensure that the point is made.

We will not be in the lead of Brexit negotiations, as John and I have said. That is for the government. In terms of the resources of the FCA, it is very much, I am afraid, in the world of suck it and see at the moment. As I have said, we have put together a coordination unit. That actually has drawn on some repointing of existing resources. But like many organisations, of course, we are waiting to see just how the negotiating process, in a sense, develops as to what the demand will be. It is not however, let me stress, our intention that Brexit and the work that goes around it will distract us from our obligations. We have statutory obligations in the UK. I have been asked this question a number of times. We are not going to suspend our pursuit of

our statutory obligations to start giving all our time and effort to the European process because that would clearly be wrong.

John Griffith-Jones: Thank you Andrew. As I have said, at least currently, we are not expecting our objectives to be changed in any event. There were a couple more EU questions and then I am going to move on. At the back there was one perhaps? Okay. We will just take the one more and then we will take another topic.

Anna Washington (AIMA): I was just wondering if the FCA has given any thought to how UCITS management companies in the UK and UCITS funds that are domiciled in the UK will be affected by the decision to leave the EU, by virtue of us obviously no longer being an EU country, you cannot have UCITS domiciled here. Have you thought about how you might negotiate that position?

Andrew Bailey: We have started to do that. We have had a number of conversations with UCITS firms, and it is a good point to make. Thank you for making it, because it is a good example of the point I made, that the so-called passports are different. The UCITS passport is quite different from nearly all the other passports actually, because it has a different requirement in terms of domicile and presence. It is an important issue because actually it puts more emphasis on being established elsewhere. We are aware of the issue. We have had some conversations and we will no doubt be having more, as will of course the government.

John Griffith-Jones: Okay. What I suggest we do now is move on. There are two topics which are loosely connected. One is interest rate hedging products and the other is the GRG report on RBS. I am going to start, if I may, with interest rate hedging products and ask Mr Bates if he is in the room? Mr Bates, would you care to ask your question? Thank you.

Mr Bates: I will actually read out the full question rather than the somewhat truncated question that was given to me when I booked in. Tracey McDermott states in her report, 'And we have demonstrated a willingness to listen to and work with stakeholders who identify areas where our approach might need to change.' She also states, 'We have almost concluded the long-running interest rate hedging products scheme.' There were in fact 18,000 SMEs that were affected by this. Last year's meeting indicated there were significant numbers of SMEs who were unhappy with your approach to the interest rate hedging product redress scheme. Please confirm how many meetings were held and how many SMEs were involved to determine how the approach may need to change.

John Griffith-Jones: Shall we take that one first and then there are some more to follow. Let us deal with Mr Bates first.

Andrew Bailey: Let me start with the question of how the process was arrived at and how many meetings. I think our records suggest that there was certainly well over 20 or so meetings with representative groups during the process that was set up. I think we have got a log of 2,000 pieces of correspondence involving 400 firms. We have been in correspondence with 200 MPs, and I can add that 112 people have emailed me in the last two days and I am very well aware therefore that this issue remains an issue with a number of firms. I can tell you that I take it very seriously. We can come onto what has happened since the meeting last year if you like, but please do not underestimate the seriousness with which we take the fact that there are people out there who do feel unhappy.

Mr Bates: Certainly there are a number of people involved. If we take the 18,000 and assume that they got ten employees with staff and so forth, we are talking about a city the size of Sheffield is being affected by this, and I would like to ask, out of the 112 letters that you have received in the last two days, what was the percentage of people who said they were happy with the redress scheme?

Andrew Bailey: I think that is a very easy question to answer. It is zero. However, let me also say, the figures for the redress scheme currently are 91% of cases were assessed as non-compliant and 86% of the redress offers are full refunds or near full refunds.

Now, look, let us be very clear that does not, of course – those figures are large numbers, but they do not, of course in any sense mean to downplay or trivialise those who are not content. The fact that the large majority have accepted offers, I do not think are amongst the 112. I will read all 112 emails, by the way. I cannot tell you that I have read all 112 since they started arriving on Sunday afternoon, but I will do. But on my scanning of all of them, I do not think people have been emailing to tell me they are happy. I do not think you would expect that, really.

Mr Bates: Believe me that the people that have accepted, in many, many cases have accepted simply because they cannot afford – they do not have the psychological capacity to carry on fighting against these monolithic banks. They just have to give up, or indeed, the companies go out of business.

John Griffith-Jones: Right, Mr Bates. Thank you. We know this is a hot topic, and I have got some more questions on that. I am going to read the ones that were pre-submitted. Again, if there are people who want to join in on this, if you could be indicating. I will take them in a moment, but just so we get the paddles in the right places.

So, I have a question from Geraldine Ford: 'Will the FCA confirm the February 2015 agreements are the only ones relating to the conduct of the FCA-led IRHP review?' And then I have another one from Jackie Roberts, which is quite long, but I am sure she would like me to read it out, which I will: 'There is widespread concern that some banks (most notably RBS and NatWest) have failed to honour their undertaking to the FCA with respect to all of the applicable regulations, relying instead on their own interpretation of the review sales standards. Can you confirm that the banks had to comply with all of the FCA's regulations in the IRHP review?'

And then secondly, 'When devising the IRHP review scheme, and in particular deciding which businesses could be excluded from the scheme, and where businesses were eligible for the review, in which circumstances might banks reduce or avoid their cash redress liabilities, did the regulator consider the impact that the mass miss-selling of interest rate hedging products and fixed-rate loans with similar broke fees will have had on the affected businesses' contribution to the UK economy, or was the regulator (perhaps in consultation with the treasury) more concerned about the potential impact on the banks, if they were required to pay a substantial cash redress to all businesses affected?' I think you can detect from the strength of the question the strength of the feeling

Jeremy Rowe (Bully-Banks): I am the Chairman of a campaign group, better known as Bully-Banks, in connection with the mis-sale of interest rate hedging problems.

John, you said at the start that you wished hard evidence of what is occurring. I can cite a little hard evidence. There were 16,500 instances of the miss-sale of interest rate hedging products reviewed by the banks. Over 90% of these were found to have been mis-sale.

Of the individuals who were rewarded redress, of that 16,500, 3,250 have brought consequential loss claims. The miss-sale of these products resulted in major losses to small businesses. Of the consequential loss claims which have been determined, the 3,250, 97% of consequential loss decisions are less than £10,000. Those figures, that hard data, comes from the FCA. It is not possible for consequential loss to be so limited.

What I would ask the FCA to do now, both John and Andrew, is to take on board the concern which is being continually expressed by small businesses about their dissatisfaction with the redress scheme. A very simple step to take is to go and ask the 16,500 small businesses a simple survey: their reactions to what has happened, to the conduct of the bank joiner redress scheme. We will happily assist you to put together a survey. It can be done within a month. You could ask for response from all the small businesses within a month. In two months' time, you would have an awful lot of hard data, which I believe would lead even the FCA to agree that the redress scheme has failed many thousands of small businesses in this country.

Andrew Bailey: Well, let me start. I will start with Ms Ford's question, I think, which is on the agreements. And it is certainly the case, the agreements that were published in February last year are the only ones in relation to interest rate hedging products. Just for clarity there, the initial agreements were 2012, there was a supplement agreement in January 2013, which actually incorporated some changes in the light of a pilot scheme, and there was a letter sent to each bank in January 2013 which had more detail on how the review would operate. There are a few minor differences on a bank-to-bank basis, but these agreements are essentially generic ones, so I think that is the answer to Ms Ford's question.

The agreement with banks does include so-called sales standards, and a framework for assessing whether in all the circumstances the customer could have understood the features and risks of the product. And I think that really gets to the question of the review process, and I think this brings in the points that Mr Rowe made as well. Let me say two things about that, I think. One is, on the question of was this done in the light of the impact of mis-selling on the customers and the impact on the economy, or was it done to help the banks? I can actually draw on my former role, if you do not mind my saying so, as the Head of the Prudential Regulation Authority. It was very clear that it was not done to, in any sense, alleviate the position of the banks.

So let me give you probably the best example of the answer to that, which is that in all of the stress tests that we have done of the banks in recent years – and I was responsible for those stress tests – we did not in any sense seek to water down the numbers. In fact, in the stress tests, we actually went the other way. And that is because our approach to misconduct risk – it is not just IRHP, it goes obviously to PPI and other things – has always been we just need to know what this could be. We take no view on what it ought to be; we just need to know what it could be. So there was no directional view encompassed in that.

On the question of the review process, I think let me say one thing. Since the last annual public meeting there has obviously been a case that has gone to court, and that case is currently subject to an appeal process. But in that case, the judge said that the redress process appeared to the judge to have been conducted in a fair way. Mr Rowe, I am sorry, you do make a

powerful point, and please do not think that we are in any sense wishing to fob this off. I will go away, I will read all of the emails that you have had a hand in getting sent to me over the last two days, for which thank you. I think you make a strong point about consequential losses, and in a sense I am glad that you focused on that point, because it is an important point. And, if I may say so, I think it would be sensible after we have done that, maybe it would be sensible for us to meet and discuss that, if that is okay with you.

John Griffith-Jones: Okay, so with your permission, I would like to move to other topics. I think that one has been, I hope, given a satisfactory airing. Sir, is your question on IRHP? Let me take the one more, and then I will get to move on to GRG.

Ian Morris: represent a small business affected by IRHP mis-selling. We were mis-sold a swap by RBS in January 2007, entered the review – the FCA review – in May 2013.

I have two questions, but first, a very brief background. I read with interest your report. On page 27 it states that, 'We believe the IRHP review has delivered fair and reasonable redress to customers as quickly and as simply as possible.' I have to say, in my experience, that is not the case. We went through the review, and the review found that we were mis-sold by RBS. They sold us a structured collar. And it was not the fact that we were mis-sold the product, that was my argument, it was the offer of an alternative swap in replacement.

So we complained about this to the FCA, and to the bank, and we challenged it in a number of times via your Complex Cases Department. Interestingly, the determination that the bank came up with, which was endorsed by the independent reviewer, was described by a respected chief executive of a leading FCA-authorised derivatives expert as absolutely absurd. The replacement swap had 93% financial impact of the original swap. It was clearly done to avoid paying fair and reasonable compensation.

In our exchanges with your Complex Cases team, essentially they just stood behind the fact that you had an independent reviewer in place, KPMG, and they were there to oversee the decision. When pressed, over a period of months, your leader of that Complex Cases team agreed to look at it as part of his oversight. In those exchanges with me, a lot of information was shared, which he shared with the bank, and I have to say to you that I got the distinct feeling that the FCA and the bank were on the same team. That is how it felt to me as a consumer.

We concluded in the review in December 2015, where the bank said, 'Take it or leave it.' We have been in the review two and a half years. It was three and a half years since you announced widespread mis-selling in June 2012. Andrew referred to the agreements with the banks that were amended in January 2013. One key amendment – one key clause of that – was that the banks must not default using alternative swaps as redress, which is clearly what RBS and KPMG were doing in this case, and many other cases. The worst offender.

So we persevered and this year went to the Financial Ombudsman scheme, and within weeks the found it was not a complex case it all. They adjudicated in our favour within weeks. It took the FCA years.

My two question, if I may. When can we expect an open book, independent review of the flawed FCA redress scheme? I understand that the judge described it as conspicuously scrupulous. Many, many MPs have described it to me as fundamentally flawed. And my second question is, when can we expect the Section 166 report into the rotten treatment of RBS

customers by the Global Restructuring Group? I understand this was completed on 14th April, and it is with RBS. They have had it three months. How much longer will they need before this report is published? Thank you.

John Griffith-Jones: Thank you. We will get to GRG, because I have a similar but different question. Sorry. If I could ask Andrew just to deal with the IRHP part of the question, then we will do GRG next.

Andrew Bailey: Well thank you. I would like actually to look further at your case, which I will do. I apologise. As I say, in three weeks I have covered quite a bit of ground, but I have not gotten to that one.

I think the sort of punch line of your point was when will there be an independent review. Well, there will be a review, let us be clear on that. When it will be – our approach from this comes with a lot of advice, as always, that it is only sensible to do these reviews particularly once the legal action is done, and as you know, there is an appeal process certainly going on in the courts at the moment. So that judgement that we both mentioned, which the judge came out with, of course, the whole case is subject to review, so we will see where that ends up. But I think the key point here is I can assure you there will be such a review, yes.

John Griffith-Jones: Okay, so shall we move to GRG? We got that question logged, in a similar vein.

Richard Condon: When will the findings of the Section 166 investigation into conduct of RBS's GRG be released to us, the small businesses that were on receiving end of their behaviour?

John Griffith-Jones: So that is essentially the same question again.

Richard Condon: It is.

Andrew Bailey: Well, the answer is it will be released as soon as – it will be acted upon when it is finished. I mean, the only point I would differ on with the previous question is it is not finished; it is not finished from our point of view. It is not just a question of it not being finished from the point of view of the firm; it is not finished from our point of view. We are working hard on this because it is very important and, as you rightly say it is another element of this whole story, if you like. I mean there is a clear, as you rightly said, connection between these two things, unfortunately.

I cannot comment on the process itself because it is obviously subject to continuing work, but we will complete it as soon as possible. But it is not, from our point of view, finished yet, let alone from anything to do with the firm.

John Griffith-Jones: Okay, so I am sorry that does not give you a definitive date, but that is very clear and it is certainly at the top of Andrew's current in-tray.

If I may, then, I am going to change topics. If anyone who would like to ask a question on new issues could just be signalling whilst I take one from my script, and then the two gentlemen here already, I will come back to you and he as well in a moment.

But the one from my script, previously submitted, is from Nawaz Imam, who is asking, 'Will there be any increase or change in the on-going commitment to support innovation in financial services, and financial technology?'

Christopher Woolard: So, Andrew has already said quite a lot about this in his comments that he made earlier, but obviously we remain completely committed to Project Innovate and to our innovation agenda more widely. We see that as an absolutely key part of how do we think about our duty to promote competition. And so in the last 18 months we have given assistance to around 300 new firms in the fintech space, or in the innovation space, and as John and Andrew have both sort of mentioned at various points, we have a number of initiatives that are still on-going, particularly our Regulatory Sandbox, which is about encouraging new and innovative ideas into the market. The application dates the first cohort just closed, and we are very, very pleased by the number of firms that have applied to be part of that process.

And on the international stage, we are continuing to pursue third-country agreements that make it easier for innovative firms to move across borders. We have got those with Singapore, we have got those with Australia, we are looking at other agreements as we speak, and we are already beginning to see the first firms move across the international boundaries in those ways. So that commitment remains very strong.

Robert Arnold: Mr Davidson, I am Robert Arnold on behalf of Walter Arnold age 95, who cannot be here today. In terms of consumer protection, please can I ask Mr Davidson, what is the FCA's current standpoint with regards to the duty of compliance officers to objectively and fairly assess complaints under FCA guidelines?

Juliet Phillips (ShareAction): I am here on behalf of ShareAction, which is a responsible investment charity. My question concerns an important piece of legislation that has not been raised so far this meeting, which was the UN Climate Agreement reached last year at COP 21, which agreed to limit global temperature rises to well below 2°, with an ambition for 1.5°. There will be significant and systemic long-term economic risks if we fail to achieve this goal, and also financial risks to high carbon assets associated with the low carbon transition.

During this year's AGM season, ShareAction has been asking the banks, insurers, asset managers and other key financial actors how they are developing strategies to ensure this transition is smoothly managed. As the industry's conduct regulator, the FCA seems well-placed to ensure climate is properly accounted for at a sectorial level. So my question is how the FCA is approaching this issue, and is there a team proactively working on it?

Jonathan Davidson: Yes, thank you very much for the question, first of all. So we do take complaints very, very seriously, and in the first instance, obviously I expect all of our supervisors – and I think you mean by the compliance officers – to listen very closely to consumers and firms when they think they are not getting the right treatment. Yes?

Robert Arnold: Compliance officers within firms.

Jonathan Davidson: Oh, I see.

Robert Arnold: I apologise, I am talking about compliance officers within financial asset management firms –complying with FCA guidelines and complex procedures.

Jonathan Davidson: Yes, thank you very much for the clarification. So the compliance officers within firms, we do regard the treatment of complaints as one of the most important elements of good conduct by firms. And when we hear about – and look into – complaints about complaints, if you like, we take it very seriously. And as Andrew observed, one of the largest fines we have made in the last year was £170 million for poor treatment of complaints about PPI at Lloyd's Bank. So yes, it is a very important part of what we hold firms to account for.

Andrew Bailey: Perhaps I could take the question on climate, because it somewhat goes also back to my previous life at the Bank of England. So the UK authorities – and I will talk broadly as the UK authorities, because it is important that it is the FCA, the PRA, the Bank of England and the government – are actually very actively pursuing this question.

And to give you two examples of that, the two examples of it, is that the UK authorities and the Bank of England actually is co-chairing with the People's Bank of China, the G20 working group on green finance, which is designed to enable and remove barriers to the growth of green finance, which ought to help to address your concern in terms of making green investment assets available to be held in portfolios.

And the second thing is that the Financial Stability Board, which Mark Carney chairs, has set up the Climate Change Reporting Group, which is actually chaired by Michael Bloomberg. And that is a global group, and that is designed to bring consistent reporting and disclosure standards into action, because at the moment, there are pretty much as many green disclosure standards as there are green asset issuers. And so the idea there, which I think is a very good one, is that we aim to get consistent global standards for the disclosure, which again ought to help to grow the market for green investment.

We have been at this now for 18 months, probably. I have been enormously encouraged by the leadership that China has shown towards this. We have been very happy to work with them. We have to keep going, there is a great commitment to get going. And I think that we can achieve some big things there if we are determined to do it, which I think we are.

Jon Donachie: My question is, why is the authorisation process so slow and time consuming?

John Griffith-Jones: Very succinct. Thank you. And Mr Andrew Smith, who asks, 'What is the current situation with the debt management sector, and in particular with its authorisation?' Which is essentially a question along the same lines.

Jonathan Davidson: Thank you for both of the questions. I will take them in turn. First of all, authorisations is a very important tool for us to make sure we have very standards in the financial services industry. Altogether, I think that we have about 56,000 firms to supervise and make sure they reach the very highest level of standards. And for many firms, authorisation – whether they first become authorised, or there is a change of control, or a variation of permission, or a new senior manager being authorised – it is very important that we use those opportunities to set the very highest standards.

In terms of how long it then takes for us to make sure the firms reach those very high standards, a lot depends on a number of factors. The first one is the quality of the application. And indeed, when applications come in, if they are complete, the statutory deadline is six months for approval of a new firm. And if they are incomplete, it can be 12 months. So the quality of the application makes a significant difference.

The second factor that makes a huge amount of difference is the complexity, and the level of risk inherent in the sector or the firm. Where there are large numbers of consumer – particularly vulnerable consumers – involved, where we think there is a significant risk to consumers of unfair treatment, we do not apologise for the fact we take detailed investigations to understand them. And that may involve several inquiries of the firms, in which case the speed of turnaround of the firm, and the firm's ability to convince us that they meet the high standards, comes into play.

And then finally, of course, we are resourced to what we predict as the level of volumes. In some cases, as Andrew mentioned, the volume has exceeded our expectations. For example, the number of new firms, I think there were 13,000 new consumer credit firms who apply to become part of the market: considerably in excess of the number that we were expecting. So all of those factors play into it. What we have done in response to the volume question is we have added staff. We have also started to have a look at our process to see if there is anything we can do to speed it up. And we are also very conscious that with new firms we are trying to encourage innovation. So we are doing things like the Project Innovate, and helping firms through that.

In terms of where do we stand with debt management, as I said, some sectors are much higher risk than others. The debt management sector has about 400,000 plus consumers who are customers of debt management plans, and many of those are vulnerable customers in vulnerable situations.

In June 2015, Andrew talked about a thematic review that we did, which found that in many of the firms in the debt management space – in the commercial space – standards of treatment of customers were unacceptably low, and even in the not-for-profit sector, there was considerable room for improvement.

Where we stand today, there have been 293 debt management, debt counselling or debt adjustment firms have applied for approval. Of those, 120 actually have withdrawn their applications, in many cases because they realised it would be difficult to meet our high standards. We have refused only 13, and we have approved 39 for debt counselling, but those do not provide debt management plans. There are some 89 awaiting determination, and we continue to work with them.

Michael Mason-Mahon: Good morning Mr Chairman and the rest of the Board, and to the ladies and gentlemen in the room. Forgive me for not standing, but I have had a stroke. Mr Chairman, a few questions from people up here concerning the relationship between the FCA and the banks, I have always and continually asked what is the true relationship between the government, the FCA and the banks.

Is the board fully aware of the House of Representatives report published on 11th July 2016 concerning the FCA and the Chancellor George Osborne's interference into the criminal prosecution of – are preventing criminal prosecution of HSBC. Now, what concerns myself and other people around the world is that where we have the FCA, and I once referred to you as the Financial Comedy Act, and I was being extremely facetious at that time but I did not realise how serious you had got. We had Tracey McDermott who was at the FSA and now is the outgoing CEO of the FCA. She turned around and announced to the world that she would no longer be investigating HSBC for tax evasion, which is quite surprising to many people in the world.

Here we have the FCA, and you are telling the world that the UK is one of the main regulators in the world. However, how can we honestly believe, and how can the world believe, after the details of the House of Representatives report shows that the Chancellor of the United Kingdom would actually turn around and advise the Department of Justice and the Fed not to make a criminal prosecution against HSBC?

Now, we have this organisation, and I am sorry, it is a bit longwinded but it is fairly quick. You had an organisation that did 25,000 illegal transactions with Iran, totalling over $19 billion,

laundering Mexican drug cartel money for many years. They admitted to at least $881 million. Yet the FCA, the FSA and the British government, under the guidance of David Cameron, you believed that the Chairman of HSBC and the rest of the board of directors are fit and proper people to run a financial organisation.

What we are requiring, not only here in the United Kingdom but in the United States, is that you have, through the DOJ and HSBC lawyers in New York, prevented the monitor's report from being released in New York. They are boasting in New York that you support keeping the monitor's report secret or sealed. How far is the FCA willing to go to protect bankers in their criminality? What concerns everybody else as well, should we now be referring to the FCA as the Financial Cowardly Act, or the Financial Criminal Alliance for crooked bankers and organisations that are willing to turn around and do great damage financially to the consumers you say that you are willing to protect, Mr Chairman?

I am sorry if you are offended. However, the fact of it is that while you sit there and allow these bankers to carry on, there are hundreds of thousands of people's lives being ruined. Is there enough evidence for the SFO to do an investigation into why the FCA has engaged in such practices in protecting these bankers? Thank you.

Andrew Bailey: Can I first of all emphasise, because it goes to the heart of your original point, that any intervention by the Chancellor, and you have seen it published because the letter has been published by the committee of the House of Representatives, was independent of any action that the FSA, as it was then, took.

The second thing I would say is really important to understand with this HSBC case is that the FCA is a party to the implementation of the deferred prosecution agreement in the US with the US Department of Justice. That is important, because the FCA is the global lead regulator of HSBC in this respect, and it is important that it is a party to this case.

Third thing I would say is I am afraid you are wrong to say that the FCA is blocking the publication of the monitor's report. It is the DOJ that is taking the case to the court in Brooklyn. Now, I am sorry, it is the DOJ that is taking this case, because the DOJ has taken the view that the publication of the monitor's report will not assist the monitor in the further actions that the monitor needs to take. Because, remember, the deferred prosecution agreement has more time to run. It is still in place. It is the view of the DOJ, which by the way I agree with, that the best situation in which the monitor can pursue their work around the world is if that report is not published. That is the DOJ's view. Please do not suggest that there is some UK conspiracy against the US authorities. There was an agreement on that point.

Let me come to the last point. It comes back to the point around the deferred prosecution agreement. Like you, this was an extremely serious case. I believe, and I have read the reports, that what the report shows is that the FSA at the time was doing its job as global lead regulator. It was not lobbying for a favourable outcome. It was lobbying for an outcome that could be put into place which is what the deferred prosecution agreement is.

I have said this before but I will say it again. It is the job of the chairman and chief executive of HSBC to sort this out. I said this as the Head of the Prudential Regulation Authority when I was asked a year or two ago; I will say it again as the chief executive of the FCA. They know publicly they have got to sort this out. This is a very big programme of work and it is a programme of work that the FCA is rightly party to with the US authorities, because we are the

global lead regulator. If it is not sorted out, then the consequences, of course, will have to be taken.

John Griffith-Jones: Okay. Right, I am going to go to Mr Baker next. I am going to go Mr Baker next.

Michael Mason-Mahon: That is not true, what you said.

Andrew Bailey: No. I am afraid it is. I am sorry. It is a matter of fact.

Michael Mason-Mahon: No. Mr Bailey, the DOJ has turned around and told the board that you support them, and the DOJ itself through the House of Representatives has failed to provide the documents. As far as the FSA is concerned, they did turn around and put pressure that if –

Andrew Bailey: No. I am sorry.

John Griffith-Jones: Okay.

Michael Mason-Mahon: – the prosecution went –

Andrew Bailey: No, sorry, let me tell you one thing. I can tell you one thing because actually, look, I was the person.

Michael Mason-Mahon: Well, do you hold the Americans responsible?

Andrew Bailey: No. No. Let me tell you. The DOJ has a responsibility which it openly admits, to take into account the effect of its actions on global financial stability. They asked us one question: what would be the consequences of HSBC failing? We answered that question because they asked it. That is the end of the matter.

Michael Mason-Mahon: Removing [inaudible] organisation. A chairman and chief executive can be removed if the organisation is failing.

Andrew Bailey: I have answered that question.

Michael Mason-Mahon: [Inaudible] of the board of directors of HSBC is unbelievable.

Andrew Bailey: I have answered that question.

John Griffith-Jones: Okay. Mr Mason, I am sorry. There is a bit of a disagreement. However, it is not appropriate for us to discuss the affairs of one firm in front of people like this. You have had the answer which I know you are not happy with but you have had your answer. I would like to take, if I may, some other questions.

Roland Baker: I was going to ask that if interest rates are further reduced, how does the FCA intend to approach the valuation of pension and annuity liabilities? The motivation for that question being that many pension schemes went into bonds after they lost faith in equities during the time of the personal pensions mis-selling scandal. However, of course as the maturity of the portfolios of bonds held by pension schemes starts to flatten the yield curve from the times when interest rates on those bonds were high and moving into the times when they are low, they are going to face a liquidity crisis as well as the possibility of a valuation problem with regard particularly to the recent shenanigans of BHS.

Also, if Tata is able to breach the ring-fence on previous accruals, it could be possible for existing pensioners to get their pensions reduced in payment which might make them wonder whether they were right to be advised by the government that they should not leave defined benefit pension schemes and take the cash.

Andrew Bailey: Well, I think the answer to that would be that, of course, this is a very difficult situation for pension funds, as you rightly say. I am not sure really the issue is so much whatever the monetary policy committee decides to do next because, as you rightly say, the yield curve has already flattened substantially and probably the most telling statistic of that in this country is that the ten-year gilt rate is now under 1%. We have seen that flattening already in the course of the year which has been very substantial, which of course has further, if you like, aggravated a situation that has been coming on for quite a few years now.

I think from the point of view of what happens next, as you rightly say, I mean this is, first and foremost a matter for the pensions regulator actually. There is not a provision to overwrite the yield curve and there should not be a provision to overwrite the yield curve because therein lies funny accounting, frankly.

Steven Gore (ILAG): At the end of last year's meeting, it was stated, I think, by Ms Philippou that the FCA impose fines on firms if they feel the firms are at fault, and on individuals if they feel the individuals were at fault. At least right at the end of the meeting, there was not really time to discuss it, but it seems to me rather odd. I mean, firms do not do anything; only people within firms do things.

We have had individual responsibilities since 1998 with the PIA scheme, only it turned out that the regulators were unable to pin down responsibility to individuals. It seemed unfair that shareholders of banks and policy holders in mutuals have to pay for the depredations of the senior executives in their organisations.

Is it the case that the FCA are confident that the new scheme will succeed when previous schemes have failed to pin individual responsibilities?

Georgina Philippou: Thank you. You take me back a few months but I am happy to answer the question.

Yes. As you say, and as you all know, we take action against individuals in firms where we can because we recognise that that can be a better way of changing behaviour, a better way of improving standards in firms, and we recognise that to our public it might appear a fairer and more just thing to do. When you look at the stats for last year, you can see that we had 34 fines against individuals and firms. We also had 24 prohibitions, so that is banning individuals. When you look at the action that we have taken in the criminal sphere in unauthorised business in insider dealing, there have been 50 convictions since 2009. We do focus on individuals where we can and we absolutely see that that is the right thing to do.

However, it can be challenging. It can be challenging identifying the right individual. We need to understand what their scope of responsibilities was. We need to understand whether the decisions they made and the actions they took were reasonable. For example, was it reasonable for them to delegate their responsibilities? We need to understand if they shared those responsibilities with anyone else or if the decision was made by a committee. Those things sometimes make taking cases against individuals more challenging and we will take a case against a firm.

The Senior Manager Regime will help because it will help to clarify who is responsible for what. That will have to be set out in writing. Their reporting lines will have to be set out. The scope of their responsibilities will have to be set out. It will make accountability much clearer and that will be helpful to us.

Steven Gore: Are you saying that you will not be fining firms, banks and mutuals but only individuals, that you will not be fining firms?

Georgina Philippou: No, absolutely.

Steven Gore: Why cannot your regime pinpoint responsibilities in all cases?

Georgina Philippou: As I have explained, it can be difficult to pinpoint responsibilities because of complex structures, complex reporting lines, shared responsibilities and so on. However, we are hoping that the SMR will help. However, it remains absolutely central to our strategy that we take action against firms and individuals depending on the circumstances, depending on the evidence that we can find.

John Griffith-Jones: Okay. I think, yes, that is both, by implication, not necessarily either or.

Christopher O'Brien: A question about the thematic review on the fair treatment of life insurance customers, and I would like to ask if the FCA will commit in its follow-up to also considering that the pay-outs that are actually given to many with-profits policy holders are less than they should be because the tax that is levied on shareholders' profits in these companies is often being paid by policy holders. I have written to the FCA about this with issues such as I believe that the FCA is flouting the will of parliament, that the evidence that the FSA gave to the Treasury Committee of MPs was misleading, and noting that the FSA has actually admitted that its rules were a concession to the insurance industry, a concession which I believe has meant that shareholders have gained probably £2 billion that should in fact be landing up with policy holders. I am told that this is not a priority to investigate. The thematic review is, as it has done, looking at the communications that insurance companies send to their policy holders. Surely it should also be looking at whether the pay-outs are right in the first place. Would you commit to actually looking into this please?

Christopher Woolard: Jonathan might want to comment on the wider piece of work that has been done around longstanding customers. However, as I understand it, Mr O'Brien, there has obviously been a lot of correspondence around this issue that has gone on for some time. I think the stance that has been taken over a period of time by colleagues has been that this is an area where it applies to a range of historic with-profits policy. In terms of sort of newer contracts that have been entered into, then this particular issue does not apply.

I understand again, the issue as you characterise it has been taken that although there is obviously a range of issues that we could look at in this particular space at the moment, there is not of a relative priority compared to a number of other things are being looked into. I am afraid I cannot quite give you the comfort that you are looking for. What I will do, though, based on this question, is I am very, very happy to go away and look at the historic correspondence that has been on this. I am very happy to look again at the issues that are raised around the policies and that roles and I will come back to you on that.

John Griffith-Jones: Thank you. I am going to go to Connaught if that is all right. I have a question from Emma Burton[?] who in my note says not in the room but it is an important question, so I will read it. It is quite a long question. I will read the first piece of it, which I think probably gets to the meat of it. 'Please provide an update regarding the investigation into the operators of the Connaught Income Fund Series 1 scheme. Also, please confirm that the FCA would genuinely consider measures such as issuing a restitution order or prosecuting

senior managers at Capita despite never having used such powers in the past.' Then she goes onto to ask when, and when are they going to see the results of the work on Connaught.

Andrew Bailey: Yes. Connaught is a very serious issue and I can assure you that we take it as such. It is subject to investigation in the context of our enforcement powers. There are therefore, as you can understand, limits to what I can say in the context of the case because we do not provide a running commentary on investigations of that nature, but it is an investigation into the funds operations and I can assure you that we will use whatever powers are most appropriate and can be used in the wake of where that investigation gets you.

I cannot, I am afraid, give a running commentary on it but I can assure you that we take this very seriously. It is subject to an investigation and the use of powers will be given obviously very serious consideration.

Duncan McLean: I work for Kirsten Oswald MP, and a letter has been delivered.

Andrew Bailey: I have received it. Thank you very much, yes.

Duncan McLean: We are not asking for a running commentary on the Connaught investigation. Investors are very keen to know what happens as you move towards the conclusion and what consultation will take place with them before you pronounce the result of your findings because I think they feel a bit disengaged from the process at the moment. There has not been a lot of contact and the representatives who are working on behalf of investors feel that perhaps things are going into a black box from which something will emerge when it emerges. Their concern is that what emerges is, 'Nothing to see here. Move on. Carry on talking to the FOS.' That does not appear to investors to be an appropriate solution to this problem.

Andrew Bailey: So first of all, thank you for the letter, which I have received. I have not yet managed to read it, but I will obviously. As I have said, an investigation of this nature has to be done under rules of procedure and we just have to do this, and I can well understand why you therefore think it sort of disappeared off the radar screen, as it were, because it has not, in our case, at all. We will have to obviously conduct that investigation and draw it to a conclusion under the powers and procedures that we have.

What I can assure you is that – and it is very helpful to have the letter – that we will have and we will establish an open line of contact so that when we can have communication and when we can conduct that communication, I can assure you that I will be most happy to do so, and it is good to have made that connection this morning because this is one that I have not previously been involved in.

Philip Meadowcroft: Before presenting my pre-submitted question, permit me to seek your clarification on the housekeeping matter in the annual reports. On page 107, it states the FCA paid group audit fees to the National Audit Office totalling £199 million in the past two years. That sounds a tad excessive.

John Griffith-Jones: I am desperately looking at my set of accounts but it sounds like too many noughts.

Philip Meadowcroft: Well, there are no noughts there. It is £98 million for the last year.

John Griffith-Jones: I apologise. It is a very good spot and I am pleased to be able to confirm, it is £98,000, not £98 million.

Philip Meadowcroft: Are there any other mistakes on any other pages?

John Griffith-Jones: That is an unreasonable question to the chairman.

Philip Meadowcroft: I will continue then with my pre-submitted one while you think about that. On page 36 now, annual report, it states that the FCA decided to start investigations in January this year to consider whether any former senior managers of HBOS should be the subject of an enforcement investigation with a view to prohibition proceedings. Regrettably, there is no further news about this in your annual report despite your investigation having started six months ago.

This could suggest the FCA might have fallen asleep at the wheel again, or perhaps have been nudged to go slow, or even to kick it into the long grass or, heaven forbid, has Maxwellisation reared its ugly head again? Today, Chairman, this is an excellent opportunity, do you not think, for the FCA to clarify the timetable and indeed to set the timetable for the investigation. One benefit, at least, would occur next year when I can avoid asking yet another question which would be for the sixth consecutive year about the continuing completeness of the inquiry into the collapse of HBOS.

John Griffith-Jones: Thank you, sir. Andrew, I am sure you cannot resist the temptation to point out that we have at least answered your question for the first four years. However, now, we have your question from the fifth.

Andrew Bailey: I was tempted to say that the NAO, of course, are leaders and value for money, but that is not the matter. Thank you for the question. I would say, if you do not mind, that your previous five questions have been about the publication of the reports, and we did publish the report as you know because I think you were present at the Treasury Select Committee when we got evidence on.

Of course, there were actually two reports. One report was conducted into the failure of HBOS and the other report was conducted into the FSA's conduct of the investigation and enforcement actions in relation to HBOS, and that was conducted by an outside QC, Andrew Green. One of the conclusions of Andrew Green's reports and this is, as it has been well publicised, he pointed to clear shortcomings in the FSA's process, was that we should, in his view, go back and re-examine those cases, and we accepted his finding. It was appropriate. We can all have wished that like you, Mr Meadowcraft, I am sure that this work have been done in the past but we are where we are, as we say, and those of us who have come in subsequently had to deal with the consequences of that.

As I said to the Treasury Select Committee before Christmas, we were going to get on with that, and we did. This involved, in the first instance, looking at cases and deciding whether there were investigations to be brought. We have made one initial announcement but we are not going to name names, but I can assure you that that work is now well under way and is taking place. As I said before with the Connaught case, I am not going to give a running commentary on it. These are cases that are pursued according to the rules that we have and that the evidence has to be looked at within the light of the enforcement action now, not the review. That work is well under way, it is being pursued vigorously and it will reach a conclusion, I can assure you.

I have to say, just as I completely accept and understand why you do not wish to ask questions about HBOS every year, I am dead keen also not to have to answer them. The sooner we can

bring this to an end the better, because we are approaching the sort of tenth anniversary, and this is running on, as they say, to put it mildly.

Rachel Haworth (ShareAction): My question is about IGCs and contract-based workplace pension schemes. The duties of IGCs are currently limited to scrutinising value for money. While we agree this is extremely important, we believe there is a real opportunity to improve the investment performance of these pension schemes, together with their accountability to beneficiaries. My question is whether the FCA will consider giving IGCs an explicit duty to scrutinise the quality of communications to members and to assess how the provider is dealing with long-time risks to the investment portfolio, including environmental, social and governance risks? Thank you.

Andrew Bailey: I know in the history of these meetings there is a sort of get out clause when you plead 'Can I answer that one in writing to you?' And could I? If you do not mind, I am not sure I could claim to be an expert on the spot, and that is it is an important question. If you do not mind, if you could give us your details, we will respond to it.

Ajibola Adeniji: My question is, what is the current situation with consumer credit applications particularly with credit reference agencies? Also, you mentioned adding staff to the authorisations department to speed up the process. Is that a full consumer credit as well?

Jonathan Davidson: Yes. I will have to get back to you particularly on credit reference agencies. In terms of consumer credits, I can actually give you some statistics. Basically, we have now finished the round of consumer credit companies coming in for interim permission and we had 49,000 firms transferred across from the OFT, of which about 25,000 applied for interim permission and 6,000 to become appointed representatives.

So far, we have determined 30,309, I think, as of March, that is 89% of them, and 99.6% of them have been done within the statutory deadlines. I will have to come back to you on the question about credit reference agencies.

In terms of what improvements we have been looking to make, we have two kinds of improvement. One is we have been looking at the way the process works and if there are steps to speed up both the time and, indeed, the productivity and the quality. And so we have commissioned a report to look at one set of authorisations with a view to rolling out new processes over the next year or two when we merge the one-time credit authorisations division with mainstream authorisations later in the year and then we will get to make some process improvement, so the answer is yes.

The second thing that we have observed is a number of firms felt that they did not get enough communication, particularly those in interim permission who were already up and running but were worrying, because they have not heard anything, that perhaps things were not what they thought despite the fact that we tried to be very clear, if there are problems, you will certainly know about it. We have been instituting a set of standards around communication of acknowledging receipt within two days for instance and setting a standard for coming back when things are submitted.

John Griffith-Jones: Okay. I think then it is time for me to draw proceedings to a close. Could I, first of all, assure those who pre-submitted questions that they would get their full answer on the website? Those of you who had spontaneous questions but did not get the opportunity to answer them, you are always more than welcome to contact the contact centre if you need a

specific answer, or indeed to write to Andrew and me if there is something of importance that you want to draw to our attention.

Can I thank you all very much indeed for coming this morning and for your questions? Can I thank my colleagues for being with me up here to answer them, particularly to Andrew, and may I wish you all a rather warmer day outside than we have had in the room this morning. Thank you very much.

[END OF TRANSCRIPT]