Transcript – Financial Conduct Authority's Annual Public Meeting for 2021

Charles Randell:

Good morning and welcome to the Financial Conduct Authority's Annual Public Meeting for 2021. I'm Charles Randell, Chair of the FCA. And I'll be chairing this morning's event. The Annual Public Meeting is an important part of our public accountability, and I'm delighted that so many of you could join us online for this virtual meeting. This time last year, a virtual meeting on this scale was still a novelty. Now, of course, we're all much more used to this format, and we can certainly see benefits, such as allowing more people from across the UK's nations and regions to attend and ask questions more easily.

Let me take you through the plan for the next two hours. I'll make a few remarks about the FCA's work during the last financial year. I'll then introduce our Chief Executive, Nikhil Rathi, who will talk about our future plans and goals. We'll then move into the question and answer session. If you do want to ask a question, please do so now through the questions box. I'll explain how the Q&A session will work shortly. First though, let me run through some of the significant areas of our activities since the last annual meeting.

You'll have seen some key highlights displayed before the meeting began, from issuing 1,300 consumer warnings, to taking enforcement action against firms imposing fines of £190 million. The 2020/21 year was of course dominated by managing the response to coronavirus. Our focus was on ensuring that consumers were protected, particularly those who were vulnerable. We introduced new guidance to help consumers get access to payment deferrals where needed, and over four and a half million payment deferrals were granted.

As we moved through the pandemic, the level and type of support that was needed changed, but we still expect firms to provide tailored support for consumers, and continue to oversee how firms are delivering this. We made a significant intervention to support businesses who were struggling to get payouts on their business interruption insurance. We worked with the insurance industry to take a case through the High Court, and then the Supreme Court to gain clarity on whether the insurers should pay out. Small businesses have since benefited from around £1 billion of payouts.

In any other year, the most significant event would've been our work on the transition period, following our exit from the European Union. A huge amount of work – policy, legislative and technical – was required to ensure that this went smoothly. It's a great tribute to all those involved, whether in the FCA government or industry that this was achieved without any significant problems for consumers or markets.

There were many other highlights. To pull out a few of the past year, we brought forward proposals to introduce a new consumer duty, which would give a higher level of protection for consumers in retail markets. We introduced new rules on disclosure of climate related risks for premium listed companies, continued progress was made in an orderly transition away from LIBOR, and plans were put in place for a new, more risk-sensitive prudential regime for investment funds.

We've also devoted considerable time to considering our response to the independent reviews, which were published in December. These looked at our regulation of the Connaught income fund and of London Capital and Finance. The reports made for sobering reading, and we apologise for the errors we made in relation to both these firms. Our focus since has been responding to the recommendations made to us in those reports, which we accepted in full. We've put in place action plans to implement the recommendations and the board of the FCA is monitoring progress closely. Our response to the reviews is part of a much broader program of change we're undertaking. This will make us more proactive and assertive as a regulator in the future. I'll hand over to Nikhil, to say more about the progress we're making.

Nikhil Rathi:

Thank you, Charles. Friday will mark my first anniversary as Chief Executive of the FCA. I'm proud to lead an organisation which delivers great work and with huge responsibilities. My ambition as CEO is to build on the commitment and energy I have seen right across the FCA. There have been many great achievements in the past year. Charles has referred to some, but let me add a few more.

We opened 1,715 supervision cases into high-risk investments or scams, and revoked the authorisation of 131 firms, who no longer met our standards. We handled 223 applications for registration from cryptoasset businesses to assess their anti-money laundering measures, and assessed 1,046 whistleblower reports, with 2,754 separate allegations. While there is much we can be proud of, I'm also clear that the FCA needs to continue to adapt if we are to deliver our objectives, to protect consumers and markets.

A key goal for me over the last 12 months has been to ensure that the FCA is able to change and develop its capabilities to meet the challenges we face in the coming years. Those challenges take many forms. The rise in vulnerability coming out of the pandemic, rapid technological change, rewriting the UK regulatory framework after Brexit, and the transition to a net zero economy. In July, I set out my vision for the FCA. I talked about us needing to be more innovative, more assertive and more adaptive. We are already putting that into action. More adaptive, streamlining our decision making by ensuring more decision on firms conduct, and in authorisations are made at the front line, and setting out new rules that will help us remove firms' regulatory permissions more quickly when they're not being used.

More innovative; we will strengthen the foundation of our data and build capabilities to deliver automation and efficient. We also want to promote innovation by the firms. We regulate. Our regulatory sandbox has served as a blueprint for 44 regulators globally. And since August, 2021, we began accepting applications on a rolling basis, throughout the year. We are piloting our digital sandbox, focusing on sustainability and climate change.

More assertive; signaling our concerns about the promotion of cryptoassets and the structure of certain crypto firms, taking action against firms who manage debts, leading to five firms ceasing to provide debt management advice. And this month, we set out our new strategy for consumer investments, a strategy which aims to give consumers confidence to make investments, reducing the chance of harm from scams, and enabling them to make appropriate decisions with a proper assessment of risk. All of those have taken place in the 10 weeks since my July speech. It hasn't been a quiet summer. And these are just some of the actions we have committed to in our Business Plan for this year.

I'll describe other key areas of focus. We will ensure firms start with and maintain high standards, by a more robust gateway for new firms applying for authorisation with higher standards and greater scrutiny. We are adding 100 new members to the Authorisations team to enable this. We will remain vigilant in tackling misconduct. I've already talked about how we are streamlining decisions, and we will also be strengthening the regime around financial promotions. All this underpinned by an £11 million campaign to highlight to consumers the potential harms in the investment market.

To protect consumers, we will be setting out details of any proposed new rules on a consumer duty, following consultation, and working with the government as it developed to bring buy now, pay later services into regulation. And to improve how markets operate, we will finalise our proposed reforms to improve market effectiveness. We will be setting out more detail on our plans for consumers and wholesale markets in strategy documents in the new year.

These will give clear strategic outcomes and measures by which you can assess our progress. All this activity is underpinned by significant internal change through our Transformation Programme. We are making substantial investments in data and technology; around £120 million over three years. This will give us better capacity and tools to collect, triage and store data. It'll allow our people to have the right information, at the right time, and then to analyse it so that we can transform our ability to act, to spot problems more quickly and to respond more rapidly. Last week, we began an internal consultation on modernising our terms and conditions, strengthening the FCA as an organisation with a diverse and inclusive environment, one where talent is rewarded, and where people work at pace across the organisation to deliver our goals. And we have reshaped the leadership of the FCA, strengthening our capabilities in areas such as digital and data and ESG: environment, social and governance. We have ambitious plans which will require continued hard work, talent and energy to deliver. I'm confident that they will achieve a transformed FCA, a stronger, more effective organisation, a more forward-looking and proactive regulator.

Charles Randell:

Thank you, Nikhil. So as you've heard, there are many challenges in the year ahead of us, but we are determined to transform the FCA to meet them and to build on the progress we've already made. If you haven't already done so, please submit your questions via the question function. We'll be starting the Q&A part of the meeting in a couple of minutes.

So now it's time for the most important part of the meeting, your questions. We are joined remotely by members of our Executive Committee who will help Nikhil and me answer some of your questions over the next couple of hours. Joining us, we have Megan Butler, Executive Director of Transformation, Stephanie Cohen, who joined in June as our Chief Operating Officer, Sheree Howard, our Executive Director of Risk and Compliance Oversight, Sheldon Mills, Executive Director for Consumers and Competition, Sarah Pritchard, who joined us in June as Executive Director for Markets, Jessica Rusu, who also joined in June as our Chief Data Intelligence and Information Officer, David Scott, our Interim General Counsel, Emily Shepherd, who joined in April as Executive Director Authorisations, and Mark Steward, our Executive Director for Enforcement and Market Oversight.

Thank you to all those who submitted questions in advance of the meeting via our registration site. We had over 50 questions. Thank you also to those who've submitted questions this morning. You're still able to ask questions throughout the meeting via the question box. We'll be grouping questions by topic to help us get through as many as possible. I expect we'll have more questions than we can answer today. Any questions not answered today will receive a written answer on our website in due course. So let's get started.

We are going to start with two questions on a similar subject from Charlotte Johnson, and one from Chris Jones, they both relate to the treatment of vulnerable consumers. Charlotte asks, "What are your focus points for consumers in arrears? How will you protect vulnerable consumers here?" And Chris asks, "What positive changes have you seen or enforcement action have you taken in response to the publication of your guidance on the fair treatment of vulnerable customers?" And I'm going to ask Sheldon Mills, our Executive Director for Consumers and Competition to address those questions. Sheldon?

Sheldon Mills:

Thank you, Charles. And thank you, Charlotte and Chris, for your question on vulnerable customers and the action that we're taking. We recognize the challenge faced by all consumers, particularly during the pandemic and post it, and that's why we've taken significant steps, both to understand the experience of consumers through our Financial Lives survey and other work with partners, and also to take action to support vulnerable consumers through the pandemic. And now, as we come through the tail end of this crisis.

On understanding vulnerable customers, our Financial Lives survey has really helped us to understand the needs of vulnerable customers, particularly those facing debt, and our findings show that there are now more adults with low financial resilience, there's a greater number of adults reporting mental health issues, and we found in October last year that 16% of adults were not confident of being able to meet mortgage, rent or credit commitments.

We also have found that the impact of the pandemic and also the impact of issues in terms of arrears are felt disproportionately by certain parts of society, particularly the self-employed those aged 18 to 24, and adults from an ethnic minority background. So what are we doing about this? Our guidance on vulnerable customers has been an important piece of guidance for us. We're working with industry, so that they can focus their efforts on identifying customers with vulnerable characteristics, and ensuring that they meet their needs. In the wider space of borrowers who might be in financial difficulty, this is a priority for us, we have a priority around consumer credit, and also achieving fair value for all customers. And some of the outcomes that we want to see, and that we'll focus on, is that people can get the appropriate help that meets the complexity of their needs as vulnerable customers, that they can engage at the earliest signs of a problem, and that forbearance is reported appropriately to credit files on a consistent basis.

And finally, working with partners that such as the Money and Pensions Service, and other organisations that there are good quality debt advice and debt solutions available to borrowers, so the full journey for people is supported.

In terms of the enforcement action that we've taken, and the response to the guidance, to go to Chris's question, we've seen a very positive response to the guidance from industry. We know that industry is working very hard to update the way in which they approach people who are in debt, and all of their customers, and take account of their needs and vulnerability, but there is more up to do. And in 2020, we issued a final notice against Barclays Bank for failing to treat customers in arrears fairly. This included failing to understand customer circumstances and missing indicators of financial difficulty or vulnerability in a significant number of instances. This demonstrates that many of our firms still have work to do, and to ensure that they're meeting vulnerable customers’ needs. And as you can see that both through our supervisory and our policy actions and this enforcement action that we're taking a holistic and integrated approach to tackling this problem. Thank you, Charles.

Charles Randell:

Sheldon, thank you. And I've now got a group of questions which all relate to the very serious and prevalent issue of fraud and scams. I'm going to direct these to Mark Steward our Executive Director for Enforcement and Market Oversight. One comes from Jet Jassar, one from Pauline Creasey, and one from Charlotte Johnson again. So Jet asks, "How are you preventing and dealing with fraudulent scams and protecting the general public?" Pauline asks, "Why is financial crime one third of UK crime, the crime that most affects the public and why isn't it being prevented or stamped out effectively?" And Charlotte tasks, "How will you help mitigate fraud in markets following coronavirus?" So Mark, over to you.

Mark Steward:

Thank you, Charles. And thank you for those questions, Jet, Pauline and Charlotte. I think it's well known that we are facing significant increase in the incidence of fraud in our community, and that has been particularly prevalent really over the last 12 to 18 months. Lot of that has been fed through the increase in online scams and frauds, and I think the Home Office has said that that 86% of fraud in the country now is either viral, through online means. I think the evidence that we can see doesn't contradict that.

So, what is our response to this developing an increasing phenomenon? Well, I think, it's all to do with prevention, protection and the pursuit of the protagonists behind this phenomenon. Let me just briefly talk about prevention and protection. And Nikhil has already mentioned, the consumer investment strategy that we published just the other day, setting out our objectives here to create a safer financial services industry, in which consumers can engage safely, and with confidence, which means building stronger gateways and both Charles and Nikhil mentioned the importance of the gateways into the regulated sector to keep bad actors out, and also ensuring that regulated firms are building stronger anti-financial crime buffers.

Importantly, for the prevention and protection strategy is the perimeter that surrounds financial services under the regulation. The perimeter is the thing that limits our powers, and it's also the area within which the firms we regulate really operate. And it really needs to work more proactively in order to protect consumers, as opposed to being simply a limit on our powers. We want consumers to be able to have the confidence and trust that they invest within the perimeter, rather than invest outside the perimeter, via the glossy promises that are being seen online at the moment.

So, really importantly, we investing in our ScamSmart campaign. ScamSmart's been running for about five years now. It's really an important campaign, and also website, which provides consumers with up-to-date information on how to avoid a scam, and encourages consumers to use the information that we've got, including our Register, and our warning list of potential scams, and how to avoid being scammed and becoming a victim themselves.

We know from the research that we carry out, that all of us feel confident that we can pick a scam using our own intuition, and knowledge and experience. And we know that that is an overconfidence and ScamSmart is a great way of giving people real information, unfortunately based on some really difficult experiences that victims have given to us, and to avoid being scammed in the first place. The warning list is contained in the ScamSmart site; it's on our website as well, it's a list of firms that we see operating that we think consumers should avoid dealing with. We've increased our rate of detection of firms that should go on the warning list, particularly in the light of the online phenomenon that I mentioned at the outset. And we're now better able to play firms on the warning list within 24 hours of those firms actually appearing online in the first place. The numbers of firms on the warning list has increased by over 100% since 2019.

We've also engaged with social media, given the increase in online advertising of dodgy investments. We need to deal with social media, and we don't regulate social media, but we are putting them on notice that we expect them to be involved in this process of protecting the community. The social media sites are effectively a gateway in which scammers are getting access to vast numbers of people in the population through online searches. We're really pleased to see that Google has changed the terms of its advertisers to exclude financial promotions from its priority searches that come from firms that are not authorised by the FCA, and this commenced on the 6th of September, so only a few weeks ago. We can see it's having an impact already in curtailing the increase in suspicious financial promotions on Google searches, but we also know that scammers will continue trying to feed social media with dodgy financial promotions and that that impact will be seen on other social media sites like Facebook. So we are talking to all social media firms about this, and it's really important that all of them, all of them change their processes and procedures, otherwise we will have to take action.

And we also support the proposed Online Safety Bill. It's really important this area is properly regulated. Now all of those initiatives around protecting and preventing are not at the expense of pursuit, and we are pursuing many more of these cases than we have before. The work here around our unauthorised activity beyond the per is the biggest component of our enforcement work at the moment and has been for the last year or so. But what we recognise is the modus operandi of these scams is very sophisticated, often involving overseas criminal elements who use the anonymity of the internet to hide their identities as well as their locations.

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We recently pursued one case in which the scam was using the name of a legitimate company registered with Companies House here in England, but in fact it was a group of people somewhere in the world, we don't quite know where yet, using the name of that company, but locating themselves elsewhere, using foreign website hosts and private VPNs for their telephone numbers. These investigations are time consuming and very complex. And just the other day, we secured a jail term for one UK national who was jailed for five years, who was involved in laundering several million pounds of UK investors' money as part of a transnational organised crime group. We believe at least seven professionally run overseas investments frauds were connected to this person and connected to that money. So we'll take action wherever and whenever we can, and we'll pursue cases as far as we can, but it is difficult. It's really important, particularly given the fact that money disappears so quickly, that prevent and protect, as well as pursuit, are part of the overall strategy.

Finally, I'll just add one more point. There are encouraging signs that the industry understands that its anti-financial crime buffers need to be both visible and effective. Recent UK Finance figures suggest that more than half of attempts to carry out unauthorised push payment fraud are now being blocked. This is an important achievement, and the same report though concludes that the amount of losses due to fraud has increased by 30%. Now that represents at least three quarters of a billion or up to £1 billion worth of losses over the last year. Those losses of course are not only to consumers, but they're also losses to the legitimate investment and regulated markets and businesses that we oversight. So there is considerable need for the industry to continue to step up here and we're prepared to work with the industry to do that.

Finally, I think sometimes it can feel quite lonely doing this type of work, particularly when the broad spectrum of law enforcement in the UK devotes only about 1% of its resources to the fight against fraud. The FCA clearly can't be the only one in the room in fighting this national problem. So we are very pleased to be working with the National Economic Crime Centre, as well as our law enforcement partners, to try and address the pursuit question more squarely and with more resource as well.

Charles Randell:

Thank you, Mark. Thanks very much. We'll now move on to a different tack, a question that's been submitted during the meeting by Ripon Ray. I'm going to direct this question to Steph Cohen, our Chief Operating Officer. And the question is, "Would it be fair to say that the FCA mostly recruits candidates from businesses, rather than say charities or public sector workers, although the FCA works in the public interest? Steph?

Stephanie Cohen:

Thank you for the question. So the FCA recruits colleagues from a very wide range of sectors and backgrounds, and that is absolutely necessary, given the nature of the work that we do. Our recent Exco appointments, which you can see today, are in themselves a demonstration of that diversity. There is no doubt that the FCA seeks to reflect the society that we serve. Our work touches almost every UK resident's daily life, and in addition, the lives of millions who rely on UK markets. It's also true that we operate in an increasingly complex environment, and we need diverse teams, capable of dealing with the challenges we face and judgements we need to make every day. We are committed to taking positive action to be a leading diverse and inclusive organisation, both as a regulator and as an employer. Both diversity and inclusion are at the very heart of everything that we do, and that very much extends to our recruitment approach. Thank you for the question.

Charles Randell:

Okay. Thanks very much Steph. Next, we go to a question from Allison Scott Bishop, which I'm going to direct to Emily Sheppard, our executive director for authorisations, because Allison's question is, the FCA's current decision-making process in relation to new business proposals, feels very slow and bureaucratic. How will the FCA work with regulated entities to ensure that responses to queries and reviews of new business proposals are provided on a timely basis, which recognises the commercial pressures? So over to you Emily.

Emily Sheppard:

First of all, Alison, I think you are absolutely right. It is too slow. It has been too slow and bureaucratic as well. So we're doing quite a lot to try and change that process. The first bit is in decision making. So we recently did a consultation paper there in changing the way that we do decision making to make that piece faster. But we are also investing a lot in the authorisations gateway. So that's when businesses want to change what they're doing and getting changes, information or just new entrants as well. So the first piece there is we are adding more people.

We have some significant queues. We publish the times that we expect to get things done by on the website and our achievement against that. So that was published in July, and you'll see that there are some queues. For example, I think one of the hardest at the moment is the Senior Management Regime, where we aim to get everything done within three months. And currently we are hitting 89.5%. So immediately, additional resource is going to help that, help get through that work, but under the Transformation Programme, which I'm sure Megan will talk about later, after that Transformation Programme, we are doing significant investment in process improvement, in changing the forms to make sure we're asking what we need and for increasing automation.

So the whole thing should be much simpler, much quicker. We should have all the information we want immediately and-

Charles Randell:

Okay. I think unfortunately we've lost the feed from Emily, but I think we managed to get most of her answer there. So I hope Allison that you got from that what you needed. I'm now going to come to two different questions relating to London Capital and Finance (LCF). And I'm not going to take them as a group, because they're really directed to two slightly different points. The first comes from Mike Wynwood. The question is, how do you explain taking over two years to answer complaints from LCF victims. Sheree Howard who's our executive director for risk and compliance oversight, will answer that question. And then we'll come on to another important question about LCF, but Sheree over to you.

Sheree Howard:

Thank you, Charles. And we thank you Mike for your question. I'd like to start off by reiterating what Charles said in the opening that LCF as we know has had a devastating impact on the lives of many people, and we are profoundly sorry for the errors we made in the handling of that case. As we've outlined, we have accepted all of the recommendations made by Dame Elizabeth, in her report and now in the process of implementing them. I'm sure we're coming to more about that later. But in respect to complaints specifically, I do want to first assure people, we take all of complaints we receive in the FCA very seriously, and we work extremely hard to answer them as quickly as we can.

This is also the case where all the complaints we received about LCF, but I absolutely acknowledge that each of those people have received and seemingly receiving [inaudible] added to their concerns around this case. We first started to receive complaints about LCF not long after we made our first public intervention at the end of 2018 beginning of 2019. As you'll be aware, the Treasury directed us to appoint Dame Elizabeth Gloster to take an independent review in the summer of 2019. As such, when considering the complaints, we decided it would not be appropriate to investigate them at that time for two main reasons.

One, around the fact that we thought that the allegations would be best answered by the report on Dame Elizabeth, then [inaudible] investigation. And secondly, because answering the complaints, the prejudice that that report, and also the wider regulatory and other investigations going on at that time. We did however seek to ensure that we kept your complainants up to date in [inaudible] updates on progress. When the report was published at the back end of 2020, December 2020, obviously until that point did we have very limited circulations. So it's taken us some time to consider the findings of that report, and how it responds to all the allegations.

We've had over a thousand complaints that we needed to consider and respond and respond to each one individually. So we've been working very hard. So we've published in April earlier this year, our approach to responding to those complaints and so far to respond to them, the majority of them responded to by the end of June. And I can outline that over 99% have now been responded to. However, I do accept that it has taken us time and I hope that you'll understand why our aim has always been to respond to them as quickly as we can, to [inaudible] of disruption to people.

Charles Randell:

Okay. Thank you, Sheree. The second question comes from Mark Bishop, and I'll read the question. "The FCA is spending 120 million pounds over three years on new technology, but Dame Elizabeth Gloster said its problems are mostly cultural. Last year for instance, fewer than half the alerts received from whistle blowers were even looked at by the date the annual report was published this summer. Does the FCA accept it has a cultural problem, and if so, would it agree to work with active critics such as regulatory failure victims and whistle blowers to identify and resolve those shortcomings?"

I'm going to direct that question, Nikhil if I may to you, because I think it's important to explain the full ambition of our Transformation Programme, because I think it would be wrong to characterize it as a technology program. It is a programme about changing the way we work fundamentally, including our capabilities. So over to you Nikhil.

Nikhil Rathi:

Thank you Charles, and thank you Mark for your question, your questions to us are always incisive and probing. As Charles says, as we're working through our Transformation Programme, which is a programme that's been underway from before the time I arrived at the FCA and is wide ranging. Yes, one part of it is strengthening our data foundations, strengthening our technological foundations. I've talked about us becoming a data regulator, that's because the industry that we are working with is increasingly becoming a data-heavy industry and we need to get ahead of the curve so that we can process intelligence as effectively and incisively as possible.

And that's what my colleague Jessica Rusu, who you'll hear from later is working very intensively on. But you're right, there are also cultural issues that we've been quite open about. When I spoke in July, I talked about us becoming more innovative, more adaptive, more assertive, and there's a range of steps we are taking both in the short term and in the medium term to address those issues. We have moved to change the structure of our organisation so that we can break down some of the silos that may have existed and prevented us from thinking about problems holistically.

We have brought in new skills and capabilities and importantly, some significant operational leadership capability in our organisation. We're investing heavily in training as well, some short-term measures there, but also we'll be looking at that in the medium term too. We are looking at how we streamline our decision making and governance, with clearer accountability through our chains. As I mentioned, we are looking at our overall terms and conditions and remuneration structures to make sure that we are incentivising the right approach and the right performance. And of course, the right culture as you mentioned, thank you.

Charles Randell:

Okay. So, thank you Nikhil. And we'll move on to a different, but equally important subject, which is, both mortgage prisoners and other categories of mortgage ... second charge mortgages, mortgagors rather. I'm going to direct both of these to Sheldon. The first Sheldon is from Jill Hulme, which is as follows, will the FCA now look to the possibility of adjusting the affordability criteria for mortgages, helping the thousands of historic mortgage prisoners while protecting those who soon will possibly be unable to transfer onto new mortgage products as their income has been affected through the pandemic?

So that's the question from Jill. Then there's a different mortgage question from Karen Wilkes, which is as follows. You took over regulation of second charge mortgages in 2016 from the Office of Fair Trading, why don't you have any reporting requirements and why are you unable to intervene in any wrongdoings? I'm told it's out of your jurisdiction and there's no safety net for these consumers. Many of these loans are sold off to inactive lenders. So, inactive lenders in a sense are at the heart of both of the questions that we're being asked, Sheldon, and grateful if you can try to address them both.

Sheldon Mills:

Of course. Thank you Charles, and thank you very much for the question Jill on mortgage prisoners. We recognise the challenges faced by mortgage prisoners. I personally have been engaged on this issue for the past year and a half. We remain committed to playing our part in supporting borrowers within active firms who are able to get a new deal with a lender. You have seen some of the steps that we've taken in terms of changing the modified affordability requirements. So firms can support borrowers who meet certain affordability requirements to move.

But we recognise that there are still borrowers who are unable to switch, and we've been working with government and industry representatives to work together to look for practical and proportionate solutions, to help as many affected borrowers as we can. As you may have seen, we've publicly committed to updating our data on the demographic and loan characteristics of mortgage business, and we'll be reporting on the effect of our interventions to remove regulatory barriers to switching to the Treasury shortly, by the end of November of this year. We're approaching this review in an open manner and we've asked for comments and feedback and we welcome your comments, both technical, but also your experience, if you are in this situation.

So I hope that responds to your question there. On the second question relating to second charge mortgages, second charge mortgages came into our regulation in 2016. I believe that they came through into our regulation through a European directive, but I would need to check that from my memory, but I think that's how they came in. Then what we did then, was we issued under our MCOB, so mortgage and home finance guidance, we issued guidance to industry, and that has a few components. It ensures that with second charge mortgages, firms must apply the normal consumer protections.

So a cooling-off period, ensuring that you are protected, but they also importantly need to ensure as with all financial services products, which involve debt or credit, that the product is suitable to the person's needs. Particularly in relation to affordability. There are some exceptions there in terms of certain types of buy-to-let mortgages, but those mortgages are regulated. And therefore some of the protections which are included in relation to our wider regulations are included there. Including the right to complain in certain circumstances to the Financial Ombudsman Service.

Second charge borrowers importantly did benefit from our recent pandemic interventions in terms of forbearance. So we are conscious of borrowers with second charges and we do include them where we can in terms of our activity. I hope that answers your question. Thank you.

Charles Randell:

Thanks very much Sheldon. And it sounds Karen, as if the answer that you've received from Sheldon is different from what you feel you've been told by people in the past. If you have got any follow-up questions, please do feel free to write to me and I'll make sure that we direct your question to the appropriate part of the FCA, and give you the follow-up that you need. But I hope that answers your question. So we'll now come to a group of questions which all relate to a company called Blackmore Bonds, which was an issuer of mini bonds that has collapsed. All of these questions, I'm going to direct to Mark Steward as the person closest to this issue.

The first question comes from Allison Leonce-Coley and is as followed. Why didn't the FCA take down Blackmore Bonds after being notified in March, 2017 that they were a bad investment company by a reputable person? The second question comes from Mahendra Bajaj, which is, why is the FCA so reluctant to deliver a full independent investigation into Blackmore Bonds, similar to the LCF investigation? Please, don't say that the schemes are different, not regulated, et cetera. And then finally from Barry Smith, how has the culture of the FCA changed in respect to whistleblowers with respect to LCF and Blackmore Bond?

It's reported that whistleblowers were treated no differently from other complainants, I think is the question. So, a bunch of slightly different questions there Mark, but all focused around Blackmore Bonds. And I wonder if you could answer them?

Mark Steward:

Thank you Charles and thank you for those questions. I'll try and answer each of them. Firstly, I think the first one related to intelligence received in 2017. So, intelligence on its own is often not enough to be actionable, but it's almost always going to be enough to prompt inquiries that we then make that might turn into action. In this case, at the time that intelligence was received, our colleagues in the financial promotions team were already looking at Blackmore's fundraising and closely looking at whether the financial promotions which had been approved by FCA-authorised firms, were complying with the financial promotion rules.

Just for those who don't know much about Blackmore, Blackmore was raising money from consumers by way of loans or mini bonds to fund an ambitious property development business. Particularly in the housing sector, they perceived that there was a gap in the housing sector, more houses were needed in the UK and they were trying to raise money to be able to deliver or close that gap in the UK market. There is genuine evidence that Blackmore was engaged in housing construction, its financial promotions identified some key risks involved in that enterprise, including the fact that this was a risky enterprise in itself and included risks around the liquidity gaps that might arise in borrowing money to fund a business that then needed to construct the product that it needed to sell.

The mini bond market really suffered very badly because of the collapse of LCF and we took action in that market that really affected the fundraising that Blackmore was carrying out. And it failed. Now, there are lots of reasons why companies fail. And I know that there are a lot of people who invested in Blackmore who feel that it must have been a fraud because they've lost money. We've looked very carefully at this and we are continuing to look at the issues around the approvers, and we are working very closely with The Insolvency Service who is looking quite squarely at the reasons why Blackmore failed and whether those reasons might lead to any further action and we'll continue doing that.

So the book on this issue is not closed. In relation to ... And that hopefully also answers the question around a full independent investigation. There is a full investigation. It's not being conducted by us, but we are closely involved and will assist and do whatever is necessary to ensure that there is a proper answer here. In relation to the whistleblowing question. I think first of all, neither in the case of LCF nor Blackmore did we receive any whistleblowing intelligence from anyone who would be classed as a whistleblower under the Public Interest Disclosure Act, which is the legislation that governs the way in which whistleblowers need to be protected, and their identities kept confidential.

Our formal whistleblowing processes in the FCA are designed to capture intelligence from whistleblowers who are required to be protected under the Public Interest Disclosure Act, and to ensure that we can manage that and provide them with that full protection. All our staff are trained to identify whistleblowers, including our staff who man the call centre in the Supervision Hub. And we take all whistleblowing intelligence very seriously. All of it is assessed and where it checks out, we act on it. Usually we act on it in ways that must remain confidential, because that is part and parcel of protecting the identity of the whistleblower.

In some cases we've also taken action, enforcement action, based on whistleblower's intelligence. But I think what the question is really asking here around the intelligence received in relation to LCF and Blackmore, is that these rigorous disciplines that apply to the way in which we handle formal whistleblowing under the Public Interest Disclosure Act, hasn't applied in the past to intelligence received from other third parties. That is not formal whistleblowing intelligence. I think this is one of the lessons of LCF that we have lacked a broad triage for all other types of intelligence that we receive, and this is absolutely something that is front and centre, in the transformation agenda that Nikhil was describing earlier. So thank you for the questions.

Charles Randell:

Yeah. And thank you Barry. I think your challenge is similar to the challenge that we received from Mark Bishop and it's absolutely the case that the way that we use information of whatever kind and become a regulator that acts on it more assertively and more quickly is at the heart of our Transformation Programme. So now switching tack, we have a question that I'm going to give to Sarah Pritchard, our executive director for markets relating to Brexit, and there are two questions. In fact, one is from Sanjeev Joshi as follows. What plans does the FCA have for post Brexit autonomy as per Rishi Sunak's July 2021 statement, allowing freedom to make our own rules?

And David Bowden asks, now that we've left the EU, to what extent will the FCA shadow regulatory developments at the EU levels? So I think two sides are there Sarah of the same coin. Over to you.

Sarah Pritchard:

Thank you Charles. And thank you Sanjeev and David for your questions. So, firstly, we want to support open and innovative markets in a way that supports UK consumers, through this period where we have now exited the EU and we are entering a new regulatory framework, our markets are clearly heavily interconnected and our overall approach at the FCA will be guided by our statutory objectives. So that is to ensure that consumers are protected, that markets are working well, and that we are promoting competition in the interest of consumers. So what are we doing about this?

Well, firstly, we're working with government partners on key aspects of the regulatory framework, and in particular with treasury on the overseas person's exclusion, which allows firms based outside the UK, not specifically limited only to firms based in Europe to provide regulated activities to UK consumers, without UK authorisation. We will continue to work with government partners as the legislative framework develops. Throughout, we will be guided by proportionality, innovation. We want to see markets that work well and that protect consumers, and our aim is to maintain high internationally consistent standards, but we will tailor them to the UK.

In terms of our supervisory approach, we're working with firms as they adapt their business practices, and we are concentrating our focus, particularly on our ability to supervise effectively, to protect UK consumers. We're expecting firms to be open and transparent with us about their plans, so that we can ensure that we are meeting our statutory objectives. And we are working with a number of firms on an ongoing basis and we can expect to do so in the months ahead. The final point I just wanted to touch on is our authorisations approach. So as you probably are aware, many are accessing the UK through the temporary permissions regime, which was put in place at the end of the transition period.

As that temporary permission period comes to an end, we will be taking a tough and assertive approach to make that those firms that wish to continue to operate in the UK, meet our standards. We have landing slots that are open in various different phases for firms that are applying for UK authorisation and where firms either don't meet our standards or no longer wish to continue to have the UK regulated, we will be taking steps to remove their permissions. There is clearly lots of activity in the weeks and months ahead, and this is an important area for us to partner with not just with government partners, but also working closely with firms as they seek to adapt in this new future. Thank you Charles.

Charles Randell:

Thank you Sarah. So, we now will be going back to Sheldon Mills for a couple of questions relating to our consultation on a new consumer duty. There are three in all. The first is a pre-submitted question. I'm afraid I don't have a note here of who it was submitted by, but it's a question I've been asked before, which is, does the FCA accept that it's new consumer duty consultation, doesn't amount to a consultation about proposals for a duty of care, and that the definition of a duty of care in the document is misleading? The second question comes from Rob Mansfield, and he asks, in regards to consumer duty, financial services organisations have asked for clarity in various response online.

Do you think a fair way to summarise consumer harm, is the failure to do something or do something right from a consumer's shoes? And then Zhuan Faraj asks, can you provide an update on the consumer duty proposal that was previously floated this year? So three questions for you Sheldon.

Sheldon Mills:

Thank you Charles, and thank you very much for the questions on the consumer duty. We've consulted on the consumer duty for a variety of reasons. I think it's good to set those out before I turn to the specific question. Quite clearly we want to see markets where financial services firms are providing innovative and great products to consumers up and down the country. We all know for each of us, the financial services is one of the bedrock essential services that we have to support our lives, a bit like we're seeing at the moment with gas and electricity, for example. So it's really important that when those services are provided to us, that we are able to understand the products and services which are provided.

They meet our needs, they're sold to us in a way that is appropriate ie they're not mis-sold and that they're at a price which is reasonable in terms of fair value. Allows firms to make a reasonable profit, and allows consumers to get on with their lives and also businesses to recharge and build up the economy as we need to do post pandemic. So these are some of the reasons why the consumer duty is important. Because what it seeks to do, is to provide a higher standard of care in terms of our financial services firms which are excellent and world beating in providing to consumers.

So that's a bit of the background. One of the questions that I've been asked is whether the duty itself is a duty of care, and that's quite a technical question. So I apologise for my technical and legally bound answer, but it deserves an answer. What constitutes a duty of care can have different meanings depending on the context and the generally accepted legal meaning of a duty of care is an obligation to exercise reasonable skill in care when providing a product or service. And for example, that's reflected already in our principles. So principle two, there's a requirement that a firm has conducted its business with due skill care and diligence. The consumer duty is intended to, and in fact does set a higher standard of care and expectation beyond our current set of principles and rules.

So we've not branded the consumer duty as a duty of care. However, overall we consider the FCA rules do provide a duty of care as are set out. And what the consumer duty will do is as I've said, raise that standard of care for consumers in response to those harms that we've seen in retail markets. And I think it's positive to encourage firms to improve upon the standard of care that we have for consumers and how we're proposing to do that will be by requiring firms to act in good faith, that they take all reasonable steps to avoid causing reasonably foreseeable harm. And they take all reasonable steps to enable customers to pursue their financial objectives. And that will be a package of measures rather than a simple one-line duty.

So that's the answer to the second one question. I think the... Sorry, the first question. The second question is around harm and I think what the question, Rob, I think it was Rob, what you've posed there is, do you think a fair way to summarise consumer harm is the failure to do something or do something right from a consumer's shoes?

I think the way we think about harm in this consumer duty is less about necessary the failure to do something. That of course can be the bedrock of harm, and less about doing something right, but more about bringing together the variety of things that you need to do to support a consumer, to get a good product and service and getting that right. So as I've said, the obligation not to miss-sell to someone, so you don't push products which to people which do not meet their needs. The right way to think about the price and the terms and conditions that you have for consumers is also increasingly important.

The other thing here is that we must get the right buy balance between firm's ability to serve their customers well, but also our not obligation, but our means as consumers to seek to understand the products and services that we are supplied. So there's two participants here. Yes, firms will have more power, but it's also important that firms provide the right information to consumers. And then consumers can actually take advantage of that and buy products and services, which are in their needs.

Finally, on the third question, which is around what comes next. So our first consultation closed at the end of July. We received around 240 responses, which were carefully considering. We expect to publish a second consultation, reflecting that feedback by 31st of December. And we would hope to make any new rules by the 31st of July next year. Thank you, Charles.

Charles Randell:

Okay. Thanks very much, Sheldon. And I think the point that Sheldon was making about the way we need to bring about an effective partnership between the service that firms provide to consumers and the way in which consumers take this decisions leads us neatly onto the next set of questions, which are all about financial education. And I'm going to send these in the direction of Nikhil. And there are two questions. The first is from Cliff Weight of ShareSoc.

Will the FCA support greater financial education in schools and in the wider world, in the UK, so that individuals can learn better about the benefits of investing in shares, funds, and investment trusts? Will the FCA endorse and promote the ShareSoc investment basics course? So that's the question from Cliff. The second question, which is from Neelam Sian, is can the FCA share any information in relation to whether there are, or should be plans for working with the Education Ministry to include a financial inclusion course subject within schools to ensure the next generation are educated on basic finance, like how taxes work, to prepare for real life. So two questions about financial education for you, Nikhil.

Nikhil Rathi:

Thank you, Charles. And thank you to Cliff and Neelam for those great questions. I mean, clearly a number of the issues that we are dealing with in the consumer space at the moment, some of the sources of the problems we are dealing with are insufficiently strong consumer education, insufficient understanding of risk. And that's why I think the agenda that you're both describing is a really important one for us to be engaged in.

We don't have a formal consumer education mandate, obviously that's for the government, through the education department, and then the Money and Pensions Service as well has been set up to support education of consumers. But where we can, we do seek to contribute. So we participate in what's called a liberate to educate program, which partners with various agencies and charities to make sure that consumer education is at the forefront of their thinking and work. Cliff, your specific question, we don't tend to support specific products and push them out into schools, but always happy to learn about the particular course that you are describing.

You'll see that this isn't just an issue for schools. One of the pieces of research we published earlier this year also related to the kind of rapid rise in 18 to 24 year olds participating in high-risk investments. In that case, particularly cryptocurrencies without necessarily understanding the risks and understanding the scale of loss they might face of the money that they are putting at risk there. So this is also a question I'd say of building up that capacity in higher education and in universities too, so that there is a good understanding of risks before people invest and commit their money. Thank you.

Charles Randell:

Yeah. And thanks very much for the questions. And Cliff, obviously I'd be very happy to, and we met recently, but I'd be very happy to meet again and hear more about your investments. Basics course. So if I can just add sort of one thought from my perspective, and that is the nature of this issue is changing over time because we've moved from a world in which a lot of investment was heavily intermediated and various types of investment were not accessible to ordinary consumers to a world in which with one click, investors, ordinary consumers can make what turns out to be a catastrophic decision.

Now, yes, I would love to see financial education and financial literacy at a much higher level than it is currently, but I'm also conscious of the need to do something today that changes the world today. And that's all about giving investors the best possible information in the moment, in the moment of decision.

And that's one of the reasons that we are working with the tech giant, the search firms, and social media platforms to have a dialogue about the support that they can give at the point when some of these catastrophic decisions to get involved with scams or very, very high-risk investments are taken. So we need an approach that looks to the long term in financial education, which is largely for the government and for other agencies such as the money and pension service. But we also need to think how we as a regulator can support consumers in the moment.

And that's an important part of our consumer investment strategy, which we recently announced. So Nikhil mentioned crypto currencies, which brings us very neatly on to the next group of questions. I'm going to direct these to Sarah Pritchard. They will concern cryptocurrencies. The first is from Caroline Michel who asks, what is the FCA position on the nature of cryptocurrencies, including Bitcoins and Ethereum? Will we soon have a secondary market regulation? Then Katie Fry-Paul of the law firm, Taylor Wessing, asks, can the FCA provide an update on the processing of applications for registration of crypto businesses under the money laundering regulations and comment on the recent reporting of a hardening of the FCA's stance against these firms? And then the final question from Michael Borelli is what will the FCA do to influence legislation for cryptoassets in 2021 and beyond? Over to you, Sarah.

Sarah Pritchard:

Thank you, Charles. And thank you, Caroline, Katie, and Michael, for your questions. So cryptoassets, it's a highly topical issue for us as the FCA. We know that people are increasingly investing in cryptoassets, approximately 2.3 million of us hold cryptocurrencies and cryptoassets in some form. And worryingly, our data shows that around 14% of people are using credits to do so, which increases people's exposure to loss. And even more worrying, we have data that shows that 12% of those people, so that's approximately a quarter of a million people think that crypto is somehow protected by the FCA or by the financial services compensation scheme. The FCA has a really limited remit in terms of cryptoassets and cryptoasset related activities. They largely sit outside what we call the FCA's regulatory perimeter. So that's outside our regulatory framework.

What we do do is we regulate cryptoasset firms under the money laundering regulations for money laundering and terrorist finance purposes. But that is a limited for, of regulation. One where we are taking a tough and assertive approach, which I'll talk about in a minute, but one that doesn't provide access to a financial service compensation scheme, for example. So overall with the number of people that are holding cryptoassets, we are concerned about two main things. Number one, do people understand the risks that they are holding when choosing to invest in cryptoassets?

You will have heard the FCA say regularly and repeatedly, including Charles, our chairman, most recently in a speech several weeks back warning that people should be prepared to lose all their money if they invest in cryptoassets. And of course, that is the risk that some may take, but we think it's important that people are aware of the risks that they face. Secondly, we're concerned about the risks to market integrity. We're concerned about the risks of financial crime, the price volatility of cryptoassets, and the difficulty in valuing crypto reliably.

Mark Steward had talked earlier on about the changing in patterns of serious organized crime. And there is a concern that cryptoassets and cryptocurrencies more generally are being exploited by individual involved in serious and organized crime. So with our limited regulatory reach, as I said, we have a role in authorizing under the money laundering regulations for money laundering and terrorist finances purposes. We are trying to take a tough and assertive approach because that is the extent to which we can have some influence over cryptoassets and cryptoasset providers. We're taking a tough and assertive approach to those that are seeking permission. We have authorised 10 firms to date, but more critically we have seen really high percentage rates, approximately 84% of those that we reviewed have withdrawn their applications for registration. That's significantly higher than in other sectors, which contributes to our concerns about the level of risks that exist in that sector as a whole.

We are issuing warnings on our website for those that appear to be trading without authorisations. There are 188 warning so far, and we have made permanent abound on trading and crypto derivatives and exchange traded notes, which we made permanent in January this year. In terms of future regulation, but we are working really closely with government partners, with treasury in particular on whether other regulatory or legislative actions may be needed. Particularly, we are looking at potentially strengthening the scope of financial promotions rules, so that those that are making financial promotions, promoting unregistered cryptoassets, that they're brought within the regulatory perimeter. That is for government to legislate on, but we are working closely with Treasury and other partners as the legislative and regulatory framework develops.

Charles Randell:

Good. Well, thank you very much, Sarah. And watch this space. I think crypto is a huge challenge for regulators all over the world, and there will need to be a lot of thought given over the coming months and years to this issue, but really important questions there. I'm going to now move on to a couple of questions, which I will distribute around different people relating to effectively the FCA itself. The first for Nikhil about changes that we are making to our decision-making processes. And it comes from Robin Lambert who is with a regulated firm. And Robin asked how will the FCA judge the success of its proposed changes to the FCA's decision-making processes? And he references our recent consultation paper on that.

Nikhil Rathi:

Well, well thank you Charles, and thank you Robin for the question and thanks for the interest you've taken in our consultation, which has just closed a couple of weeks ago. We're looking at the inputs and the responses, and we're hoping to set out our new approach in November.

There are some changes we've already made in terms of our executive procedures to enable more decisions to be taken by executives in the line in a more empowered way. And then there are some wider governance changes we're looking at in terms of the decision-making process for formal interventions in the authorisation and supervisory space. In terms of how we would like to judge the success of these, really it goes back to what I said in July.

We of course want to make sure that we act proportionately, reasonably, and fairly, but we also need to act early, quickly, assertively. And so we would expect with these decision-making procedures, that where there is real risk of harm, that we should have more ability to intervene earlier and faster and prevent situations from escalating significantly. So that's the measure we'll be holding ourselves to. Maybe Charles, with your permission, I could ask Emily, who's been leading a lot of the work on this to also say a few words as well?

Charles Randell:

Very good. Emily?

Emily Sheppard:

Thanks Nikhil, Charles. So yes, we are looking at implementing this decision-making process, but it's important that not just doing things quickly, but also making sure that the answers are the right answers too. So we've got some metrics in place. We've got quality measures in place that are looking to review those decisions and make sure that we are keeping that high standard as well as making things more efficient. So that to us is a fundamental element of the whole piece. Thanks Nikhil, hopefully that answered.

Nikhil Rathi:

Yeah. Thank you.

Charles Randell:

Thank you very much. The second question about the way the FCA runs itself is a question I'm proposing to take myself. It comes from Barrie Smith and it says what consumer representation is on the board at the FCA to ensure that policies go far enough to protect consumers. So yes, we do have people on the board who have specific insights into consumer needs. I'll mention a few. Richard Lloyd who's the senior independent director has made a career working with a variety of consumer interest organisations and can bring a huge wealth of experience to bear in that area.

Alice Maynard, who's one of our non-executives has also been a non-executive of a number of other public service organisations, including Transport for London, where her focus on the needs of consumers and particularly vulnerable consumers has been evident. And then, Bernadette Conroy, who chairs a housing association, clearly has a lot of contact with some of the consumers in our society who are more financially vulnerable.

So there are board members who have very specific insights into consumer needs. And for my own part, I said when I took up the job as chair of the FCA, that I wouldn't meet a single authorised firm until I had met all of the key consumer groups, because the people you meet shape your experience and insights. And I stuck to that rule and I continue to meet very regularly with a wide range of consumer organisations who give me great insights, which I bring to my work. I'd also like to call out the role of our Financial Services Consumer Panel, which is part of one of the great strengths we have as a regulator, that we're supported by panels of subject matter experts, who challenge our work, but also provide us with a lot of useful advice.

And our Financial Services Consumer Panel has done that consistently. I'd just like say particularly during the pandemic, when it's been harder to get out and about and talk to different people around the country in person, our panels have been incredibly useful to me as a sounding board when we've had to act very quickly in the pandemic. So we do as much as we can, I think at the moment, but one of the ambitions for our Transformation programme is to ensure that we are a really outward looking organisation.

That includes having presence in different parts of the United Kingdom, around the nations and regions, so that we can understand also some local consumer issues better. And I think the change in the FCA that the Transformation Programme will bring will be where many of our colleagues spend more time out and about hearing people's stories, experts by experiences I like to call them, are the people that we need to get out and meet. And we do a lot of it, but we can of course always do more. So thank you for that question, which I do feel fairly passionately about. Then there's a final FCA focus question, which comes from Paul Scott, which is do you think the FCA's ability to supervise firms has been impacted by the pandemic? And Sheldon you've been answering a lot of the questions today, but I'm afraid I think this is another one for you. So can I come to you on that question?

Sheldon Mills:

Thank you, Charles. And thank you Paul, for the question. I think it's a very important question actually. Ultimately, we're responsible for ensuring that financial services firms are operating well. That when they fail, they fail well. That they have the right level of operational resilience through a crisis, as well as some of the other things that I've discussed in terms of how they support consumers. And Megan Butler is here as well in, in her role as transformation, but Megan's spearheaded a piece of work on the operational resilience alongside the PR and the bank pre the pandemic. And that was an important piece of work, because it actually set out a whole host of things that firms needed to do to ensure that they could meet the challenges of a crisis and remain operationally resilient. And that has borne fruit.

What we have seen is multiple firms be able to deal with going into this crisis and put all of their operations into their staff's homes. And I think that has been... We can't celebrate that because there could be problems down the line. We don't know, but we can certainly point to the fact that we haven't seen the many outages in terms of services. We haven't seen any major disruptions and we haven't seen any major reports of issues with quality of service provision.

How has that affected our supervision? Well like with all organisations, it has been a challenge to ensure that your regular communication, your ability to supervise or Mark might speak to this from an enforcement context go in on form raids that we do from time to time and things like that. There are things that we haven't been able to do because we haven't been able to do things physically, but we have supplemented them as best as we can, as quickly as we can with new digital forms of communication to ensure that we're regulating across authorisation, supervision, enforcement appropriately as an organisation.

I suppose the question is about challenges and I should meet that question. I think one of the challenges will have been the speed with which you can perhaps get on top of issues. There's some speed in terms of the communication. You can meet a lot of people, but sometimes evidently maybe not the right phrase, but seeing the whites of somebody's eyes is a good way of knowing what's going on in an organisation actually. I am looking forward to the fact that we can start to get into a more physical form of supervision and enforcement, but I think it will be enhanced by this experience of working in the digital landscape. I think our capacity for supervision and all of our activity will have grown as a result of our ability to work with tech, but there is always a place for what I'd call more physical face-to-face regulatory activity. Thank you, Charles.

Charles Randell:

Yeah, it's a great question, Paul and I frankly think that we could talk about it a great deal. I wouldn't mind just bringing in Megan Butler since her work on the resilience of firms was referenced, so that she can give a bit of a personal insight into that. So Megan, to you, I think you're on mute at the moment, so yeah.

Megan Butler:

Yep. Thank you, Charles. It is a great question and it is one that even pre pandemic we had done as Sheldon said quite a lot of work around because of concerns more broadly across industry about general levels of resilience. And I think that work did in fact bear fruit through the course of last year. I couldn't agree more with Sheldon around the need to be able to physically see for firms on occasion and individuals within them to really support the quality of supervision. But what I would observe that the pandemic has done has been in the context of transformation more broadly has been to supercharge some of our work around becoming a more digital organisation and increasing the use of data in our supervision, all of which put us in a stronger place I think for the future.

Charles Randell:

Thanks very much. So now we come onto some questions about payment and e-money firms. Sheldon, these also for you. The first comes from Dmitrijus Apockinas who's a compliance consultant at PSP Lab. Demetrius asks when can the market participants expect a newer approach guidance for payment and e-money firms to be issued? And Judith Crawford of the Electronic Money Association asks what are the supervisory priorities for the e-money and payment sectors?

Sheldon Mills:

Thank you, Charles. Dmitrijus, so to answer your question, we're considering the feedback to our consultation on the approach document, which closed in May and hope to publish our policy statement, including any amendments, that approach document before the end of the year. And I should also note we've published some updated guidance on approach to contactless payments.

To go to the question in relation to our priorities. Look, I have one priority at the moment for payment and e-money firms and that's to ensure that consumers know that the funds are protected in the event of the firm failure. I have others, but ultimately that's a very important supervisory priority for us currently. Firms are responding to our approach in relation to that. We all saw what happened with Wirecard and I've been really pleased by the way, in which firms have responded to our need to ensure that we're focused on prudential resilience, safeguarding and wind-down planning.

Underneath that, of course, and Emily and others may speak to this. I think there's a success story here in terms of payments and e-money. We've seen massive entry of firms in this space through our authorisations gateway. And we've seen many promising firms who are innovative and serving customers really well and actually competing well with the major financial institutions and showing them different ways in which they can serve their customers. And we welcome that and encourage that, but it's also important that the sector has the right approach to resilient safeguarding and wind-down planning as I've said.

So on the innovation side, that's a priority for us, but at the moment we're focused on getting the industry in a place where it's safe for all customers. So that's what will be coming out in that space. The only other thing to mention in payments in e-money, Charles, if I may briefly, is that we are also working on secure customer authentications to SCA, and it's really important that we get this right. We want to ensure that open banking, open finance, and payments really grows in order to unlock some of the benefits for customers. And dare I say, business and society at large in this space. Thank you for the questions.

Charles Randell:

Great. So I think Judith, we answered your question really, which I hope it's clear the supervisory priority priority is first and foremost to ensure that these firms safeguard customer funds and can fail safely without consumer loss. So I think secondly, ensuring that customers understand the difference between, for example, a e-money payment firm and a bank when it comes to protection, and then ensuring that the potential of payments through secure customer authentication is realised.

I think those are effectively our priorities in this area, at least, three very important ones. Of course, financial crime is pervasive throughout all of our mandate and it's really important that we apply our supervisory focus in this sector as we do in all others. Now come on to a few questions for Sarah Pritchard, but they're different ones. So I'll take one first, which is from Leah. And she asks, "Do you have a concrete goal of supporting and implementing more sustainable practices in funds in UK finance and preventing greenwashing?"

Sarah Pritchard:

Thank you, Charles, and thank you Leah, for the question. So look, this is a really important issue for us all as a country, as the UK is committed to achieving that zero by 2015. We as a regulator, as the FCA, have a role to play. But critically, so do the financial services industry too. The very short answer to your question, Leah, is yes, but I thought I'd explain a little bit about what we want to achieve and what we're doing about it.

So you might have seen, in our Business Plan which we published in July this year, ESG and green issues in particular are a cross cutting theme that run across all of our markets and all of our areas of operation. We're wanting to see and achieve high quality climate and sustainable disclosures to help support accurate market pricing and to help people choose investments that they wish to invest in and drive fair value.

We want to promote trust in that regime and protect consumers from misleading marketing and disclosures. We want to see more active investor stewardship. We want to promote integrity in the market for ESG-labeled securities. And we want also to see innovation in sustainable finance, making use of technology. There is a lot in that list and you can expect to see more detail of these areas being set out in the strategies that were referenced right at the beginning of this meeting, in the early parts of next year.

So what are we doing about it? Well, you may have seen that in July this year, we set out our expectations clearly in a letter to the chairs of authorized fund managers on the guiding principles for the design, delivery, and disclosure of ESG retail and unsustainable funds. We are focusing very clearly on making sure that references to ESG are clear and not misleading, and that they properly reflect the ESG considerations and investment policy and strategy of the funds.

Premium listed companies, as of December last year, we confirmed our rules for premium listed companies on the stock exchange, asking that those companies comply or explain, in relation to disclosures, links to the taskforce on climate related disclosures. And we're consulting on extending that to a broader range of companies and also asset managers and pensions too. In terms of supporting innovation, we're running a tech sprint day on the 21st of October to promote new solutions and proof of concepts on some of the challenges faced by regulators on ESG.

But this is an area and a sector that clearly, there will be many developments in over the course of the next weeks and months ahead. We want to do more on the credibility and the accuracy of firms' claims. And we will be looking to not only set out our expectations clearly, but also supervise against them. Much like crypto, I think it's very much watched, this space. It's clear that there will be lots of developments ahead, and we want to make sure that we're setting out standards clearly, but also supervising and enforcing against them where necessary.

Charles Randell:

Thanks very much, Sarah. So two more questions for you both on another subject, but they're similar to each other. The first, which is from Hannah Doherty is as follows: "In line with your proactive approach to financial promotions, do you intend updating your social media guidance soon?" And the second, which is from Ajibola Oliver at a regulated firm, "Will there be any further guidance on financial promotions in relation to using social media such as influencer content?" So for you, Sarah.

Sarah Pritchard:

Thank you, Charles. So firstly, the financial promotions regime itself, what is it and why is it important? It's really important in protecting consumers from high-risk investments. It requires promotions to be approved by an authorised person and to make sure that statements are accurate and not misleading. Now, we've seen huge changes in the financial promotions practices. Mark Steward talked earlier in terms of scams and fraud about the increasing use of social media, and we think it's important that regardless of where financial promotions are generated from, that there are protections. We know, and we've seen in many cases, social media being increasingly used to market and target UK consumers.

So we're consulting on strengthening the financial promotion rules that we own as the FCA, looking at defining more closely what a high-risk investment is, and also looking at potential ways of segmenting those high-risk investments. But more substantively, again, we're working with government partners who own the legislation framework around the test for those that are approving and authorising financial promotion investments. We would like to see a greater link between those that are approving and their own specific areas of expertise.

We've talked earlier in this meeting about the online harms bill. You will have heard us say before, and I'll say again, we would really like to see paid for advertising brought within scope of the online harms bill. That is an important measure in preventing some of the scams and frauds reaching people and preventing that being issued and targeted by social media channels too. So this is an area where we are working both in terms of our own rules, but with other government partners too, where legislative change is needed.

Charles Randell:

Good. Well, thank you very much, Sarah. Important topics that link up with some of the points that we've made earlier today about the ability of consumers to make poor decisions in the moment in an online environment. And it's really important that financial promotions legislation takes account of this new environment we're all working in.

So I'll now come on to some further questions for Sheldon. One of them is related to what's sometimes called buy now, pay later credit. It comes from Adrian Cummings, a compliance consultant, and Adrian asks, "Have you factored in new potential jurisdiction areas such as buy now, pay later? When does the FCA propose to bring buy now, pay later firms such as Klarna under regulation before it's too late?" Sheldon?

Sheldon Mills:

Thank you, Charles. And thank you, Adrian, for the question. There's a link between what Sarah was just talking about in terms of social media, financial promotions, and what we talked about earlier in terms of e-payments and e-money and payments, and that link is the ability of technology to really transform the way that we consume financial services.

I think it's important to note that in the context of buy now, pay later, it's one of the emergence of a different type of providing credit which has emerged in the market over the past couple of years. It sits currently outside our regulation and Chris Woolard, who formerly worked here, was commissioned by the FCA board to undertake a review. And that recommended bringing the currently exempt buy now, pay later sector, which we also refer to as deferred payment credit, into regulation.

That review identified a few risks of potential harm. and those will be things that we will be focusing on as we seek to think about our authorisations and supervisory regime, which would apply to buy now, pay later. They include the way in which the product is marketed, so that goes straight into that discussion around social media and technology, et cetera, potential for the lack of key information to the customer, and the risk that borrowers might borrow more than they can afford. So those affordability issues, which are common across what we see in the consumer credit landscape.

That said, we must note that there are some benefits to these products. They can be cheaper than not turn to forms of regulated credit, because in effect, they're interest free products. So we do have to approach this in a way which is proportionate. We seek to ensure that this market, common again in relation to the consumer duty discussion, serves the needs of its customer base. And that's what we will do, as we do in all sectors. Once this comes into regulation, we'll seek to understand the business models, we'll seek to adopt an appropriate authorisation and supervisory process that seeks to tackle potential harms and risks, but also provides for the opportunity that this form of providing credits provides.

In terms of the timeframe, we are waiting for the outcome of a Treasury consultation. And once we get that outcome, we would plan to consult on our own new rules in 2022. In advance of that, evidently, we have budgeted and resourced people to start working through and thinking through the issues, and we're naturally in consultation with the industry in advance of them coming into regulation. Thank you, Adrian.

Charles Randell:

Good. And the next one, also for you Sheldon, which is in some instances, it appears as if the financial ombudsman service is becoming a de facto regulator through their adjudications, effectively setting precedent. How are you working with them to manage this, and what changes should we expect to see? And that question comes from Mark Rosel at a regulated firm. Sheldon?

Sheldon Mills:

Charles, thank you. Mark, thank you for your question. I'll be brief. The FOS is a free service that settles complaints between consumers and businesses, those businesses that provide financial services, fairly and impartially. And they consider each case on its merits. They have a different legal test to the FCA, and they take account of the individual circumstances of those cases plus the relevant rules, guidance, which pertain at the time that the issues came up.

Naturally, because of the ability of claims management firms and others to support consumers in the FOS, there can be situations where certain types of circumstances lead to blocks of cases. And I know that industry can see that as a concern and there can be some precedents which flow from that. We are conscious of that, and we are working with the FOS in order to ensure that we look at the wider implications, respecting our individual autonomy as independent regulators ... We are independent ... and our decision-making autonomy. So we're working on the wider implications of that, and we'll work together on common issues just to ensure that the FOS understand our view of what our regulatory space is, and as appropriate, independently can take that into their processes and decision-making.

So that's what we will be doing. But I would just caution that it is right and proper that the FOS is able to independently carry out its operations. And sometimes in a system like that, that can be challenge and friction. But we will do our best to make sure that that challenge and friction is appropriate. Thank you.

Charles Randell:

Thanks, Sheldon. Nikhil's speech in July and the documents that we issued then make it very clear that a key element of our strategy as a regulator is the way we partner with other organisations. Both with the ombudsman service and with the other key players around the regulatory space, the financial services compensation scheme, the pensions regulator, the money and pension service, and increasingly, bodies in the data space and competition space, like the Information Commissioner's office, it's really important that we find ways of coordinating very, very effectively without, in any way, challenging the independence of those organisations.

Charles Randell:

We've put that objective at the heart of our transformation program as well. So it's a great question, Mark. Can I now direct a question to Sheree Howard, which is about the overhaul of our complaints scheme? It's a pre-submitted question. I don't, I'm afraid, have the name of the submitter. But the question is as follows: "Do you agree that it's about time that the FCA had a long overdue overhaul, starting with its complaint scheme, which in its current form is not fit for purpose?" Sheree?

Sheree Howard:

Thank you, Charles, and thank you very much for the question. So we've heard a lot already about working with the FCA around transforming, and complaints is very much a part of that. Complaints is an extremely important area for us in the FCA. I've already referenced earlier that, that we treat individual complaints and we look at each case individually and consider it. Because we recognize that each complaint represents someone who feels that they've been let down by the FCA and we haven't done as well as we should have done. And therefore, from that perspective, we need to make sure we take that feedback on board.

Indeed, we do view all complaints as a rich source of feedback for us, and are seeking to feed them into our translation to help us adapt, become more assertive, and innovative. And in recognition of the fact that the complaints, we weren't handling complaints as we should have done, the complaint scheme is not performing for customers. Beginning in 2020, we embarked on a significant change program in this area, and we've invested significantly in the last 18 months in resources, systems, and processes.

In terms of resources, they've increased the capacity of the team. We've also up-skilled the team through both professional training and increased the seniority of people having a team. In terms of systems, we've invested significantly in our infrastructure, supporting the complaints team. In terms of helping and increasing, making better the way we record complaints and enhance the MI we get from them.

And lastly, we reviewed and revamped all of our processes to make them more efficient and effective, and that has enabled us to make improvements in our handling. So during the last 18 months, we have reduced the number of open complaints, open standard complaints, and significantly improved the age profile of open complaints. Despite the fact that, at the same time, we've seen a significant increase in the volume of complaints received. Over recent years, we've had a three increase in complaints received.

But we're not complacent, and there is absolutely still more to do, both to ensure that the best practice that we've developed is embedded across the team and applied consistently in what we do every day, and we are continually learning. But also, how we work across the wider organisation to make sure that the learnings from complaints are embedded into what we do and we continually seek to learn from them and adapt our systems and processes.

And as part of that, in 2020, and following feedback from complainants and the complaints commissioner, we did indeed set out proposals to update the complaints scheme, simplifying the language and making it clear about what complainants can expect from the scheme. This includes about improving its accessibility and transparency, and really to help complainants approach the scheme with realistic expectations. That consultation is still under consideration, but we do accept ... One of the areas that we deemed was needing greater clarity was around special payments.

And whilst we can and do make special payments under the scheme, we don't award damages the way a court might do. But we understand that many complainants will lose money to scams and scam investments. They have a lot of changing consequences as a result, and this is why we're working really hard in other areas to identify and publicize, for example, scams where [inaudible 01:49:32]. But to emphasize, we are working hard to improve the experience for complainants through the complaints scheme, seeking to respond to complaints more proactively and make sure every day, we're learning from them in all that we do. Thank you, Charles.

Charles Randell:

Thank you, Sheree. There's a question here from John Rawicz-Szczerbo, who is asking you a question about Connaught. This was a firm that failed, well, 10 years ago, more or less, and was supervised initially by the FSA and then failed. It was the subject of an independent review into the way that the FSA and the FCA handled the Connaught income fund. The question that John asked is, "Can you please explain why the FCA behave the way it did in respect of Connaught?" And I think John, I'll take that question, because as you know, I appointed an independent reviewer to investigate the way that the FSA and the FCA had supervised Connaught and how they had responded then to the failure of Connaught.

The independent review, I think, provides a lot of the answers you need of the explanation for why the organisation behaved the way it did. I think it's fair to say that the organisation ... and I'm talking here about the FSA initially ... did not understand fully the risks inherent in the business model that Connaught was pursuing, and then wasn't swift enough to act in responding to what it found, and was concerned about the impact on investors of precipitate action.

But one of the consequences was that the organisation took too long to respond, and we've responded to that independent review, we've accepted all of the lessons that it gives us, and we've embedded them into our transformation program. We're determined to be an organisation that understands our firm's business models, that acts assertively when it sees things that are not right. And I am already confident that we are a long way down the road of getting to be that type of regulator. But it's not yet complete, and completing that process will take a number of years from where we are now under the leadership of Nikhil and the executive committee.

So that, I think, is all I can say in response to that question. I think we'll take one more question, which I'll direct to Nikhil. And again, I don't have a name for it, but the question is as follows: "Your focus seems entirely on the negative aspects of the financial services sector, and there's little or no focus on positive aspects of the sector. It creates an environment of mistrust for consumers. Do you see this? Ever-changing?" It's quite a challenge. Nikhil, to you.

Nikhil Rathi:

Well, thank you for enabling us to end on a positive note, because I do think you're right, to the colleague who submitted the question, to give us that challenge. And we do see huge positive action by the financial services industry in many domains. At the start of the pandemic, a number of the financial services institutions stepped up very quickly to provide payment deferrals for consumers that were in considerable distress: 5.8 million payment deferrals were provided. We also saw very significant amounts of money lent to small businesses through various schemes with a number of institutions stepping up and scaling up their operations to deliver.

We saw the markets supporting ... and there's a very complex market ecosystem ... We saw the markets supporting companies in distress to record equity capital raising, helping them manage the short-term disruption and think about putting their balance sheets on a stable basis for the longterm, and that shows the strength, I think, of the market ecosystem here. And we saw some innovation also in that domain with retail consumers also being able to participate.

We have led a lot of work in innovation on the area of FinTech, and that's a big area of focus for us. We have a global financial innovation network with over 20 jurisdictions partnering with us to help solve some of the really difficult issues that exist. And we have financial services firms partnering with us, be that in tackling financial crime, tackling money laundering, providing creative ways for vulnerable consumers to access financial services.

So there is much positive work, and it's that partnership that we would also like to cultivate. And maybe Charles, Jessica who we haven't heard from yet, she could talk a little bit about some of the innovation and FinTech work as well, because she's been getting very involved in that last few months.

Jessica Rusu:

Thank you, Nikhil. Yes, I have joined recently in June and have started to try to bring together the innovation work, together with the data and technology work, to make us more data and intelligence led overall. And yes, as you've referred to already, we've already been working quite a lot on the innovation work. More than 700 firms have used our innovative services, including the regulatory sandbox, the direct support and advice unit. And not allows firms to test and experiment innovative solutions in the market.

So that's a real positive innovation for firms. The regulatory sandbox is, as mentioned, a blueprint for 44 regulators globally. So in terms of what are we doing next about it, we're also moving to an always-on method for the regulatory scale box. And that was a recommendation that came out of the Kalifa review. So all of this put together, I think it's worth mentioning that as we break down the silos across the data innovation and technology teams, we're looking to build a unified intelligence environment, and that should help us get the right data, at the right time, into the right hands.

Charles Randell:

Yeah. Thanks very much, Jessica. And I think it's appropriate for me to recognise, again ... It's already been said, but to recognise again, the efforts that have been made by people across the financial services industry in the last 18 months, including frontline staff working in incredibly difficult conditions in bank branches, in call centers, to respond to consumers and support them as best they can.

I think it's been extraordinary how the system has held together in that period. We've played a part in that, but by no means the only part, and I do pay tribute to everybody who's played their part. I'd like to bring the meeting to a close now. We're approaching 12 noon. Thank you everyone for joining us today. We received a large volume of questions. Obviously, we haven't been able to get to them all in the time we have, but we will answer all the questions put to us and we'll publish our answers on our website.

This meeting is an important part of our accountability. It's clear from the challenging questions we've had today that our work remains of vital importance. As Nikhil has outlined, our transformation continues at pace, and I'm sure that you'll all be there to hold us to account in the coming year. I'd like to say something in response to a question that Conor McGuire asked, which is how are we planning to conduct this meeting in 2022?

I'm afraid I'll have to answer that with a quote from a very wise person who said that predictions are difficult, particularly about the future. One of the things that we have to consider is the environment that we'll be in, in 2022. But we also have to recognise that we must be an accessible regulator for the nations and regions of the United Kingdom, not just for the Southeast, and design our Annual Public Meeting as part of a program of engagement, a much broader program of engagement, with consumer stakeholders. Those who think we're doing a good job, those who think we're doing a terrible job, we need to get out and be confronted by all of those opinions, because they're part of the challenge that improves our work.

So can I just thank you all again for joining today? And as I say, we'll answer your remaining questions on our website. Thank you very much.