PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCIAL SERVICES BILL

Fourth Sitting

Thursday 19 November 2020

(Afternoon)

CONTENTS

Examination of witnesses.
Adjourned till Tuesday 24 November at twenty-five minutes past Nine o'clock.
Written evidence reported to the House.

PBC (Bill 200) 2019 - 2021

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not later than

Monday 23 November 2020

The Committee consisted of the following Members:

Chairs: PHILIP DAVIES, † DR RUPA HUQ

† Baldwin, Harriett *(West Worcestershire)* (Con)
† Cates, Miriam *(Penistone and Stocksbridge)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Davies, Gareth *(Grantham and Stamford)* (Con)
Eagle, Ms Angela *(Wallasey)* (Lab)
† Flynn, Stephen *(Aberdeen South)* (SNP)
† Glen, John *(Economic Secretary to the Treasury)*
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† McFadden, Mr Pat *(Wolverhampton South East)* (Lab)
† Marson, Julie *(Hertford and Stortford)* (Con)
† Millar, Robin *(Aberconwy)* (Con)
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Richardson, Angela *(Guildford)* (Con)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Williams, Craig *(Montgomeryshire)* (Con)

Kevin Maddison; Nicholas Taylor, *Committee Clerk*

† attended the Committee

Witnesses

Hugh Savill, Director, Association of British Insurers

Duncan Hames, Director of Policy, Transparency International

Jesse Griffiths, CEO, Finance Innovation Lab, and Fran Boait, Executive Director, Positive Money

Hon. Albert Isola MP, Minister for Digital and Financial Services, HM Government of Gibraltar

Public Bill Committee

Thursday 19 November 2020

(Afternoon)

[Dr Rupa Huq *in the Chair*]

Financial Services Bill

2 pm

The Committee deliberated in private.

Examination of Witness

Hugh Savill gave evidence.

2.2 pm

The Chair: Good afternoon, everyone. We will now take evidence from the first of our afternoon witnesses, who is joining us remotely. I remind hon. Members on the right-hand side of the room and in the Public Gallery to use the microphone near the window when they pose their questions. We will hear first from Hugh Savill, from the Association of British Insurers. We have until 2.45 pm for this session, so lots of time. Hugh, will you introduce yourself for the record, please?

Hugh Savill: I am Hugh Savill, director of regulation at the Association of British Insurers.

The Chair: Thank you. We will start with the Minister, John Glen.

Q158 The Economic Secretary to the Treasury (John Glen): Thank you, Dr Huq, and thank you very much, Hugh, for giving evidence to us this afternoon. Thank you very much also for the written evidence that the ABI has submitted, I think through you, and for the welcome that you give to the measures, particularly on Gibraltar, the overseas fund regime, PRIIPs and money laundering.

I would like to probe your views on the measures that we are introducing with respect to access arrangements between the UK and Gibraltar for financial services firms. How do you see the issues around maintaining the same quality of regulation between the Gibraltarian and UK regimes? Do you foresee any challenges with that? How important do you think that that level playing field will be?

Hugh Savill: A level playing field between Gibraltar and the UK is essential. I think that about 20% of the British motor insurance market is in fact serviced by firms from Gibraltar so, clearly, whether people are working from the UK or from Gibraltar, that needs to be on the same basis. Given that you have two regulatory authorities, and that can always be quite awkward, we think this strikes a good balance. There is good dovetailing of the relationship between our regulators and the Gibraltarian regulators, and we really hope that the Gibraltar authorisation regime works and provides a smooth basis for business in the future.

Q159 John Glen: I understand from your written evidence that, as a body, you have some reservations about the setting of conduct rules at an international level. Would you like to say a bit more about that and explain what implications it has for how we should approach this issue going forward?

Hugh Savill: This is mainly derived from our experience of conduct regulation at the European level over the past 10 years or so. To be honest, it has not shown the European Union at its best. We have the PRIIPs regulation, which is mentioned in the Bill—well, we are having to correct it—and there have been other measures, such as the insurance distribution directive, which, frankly, have been no better. It is not entirely to do with the way that the European Union makes rules; it is because consumers expect different things in different countries. All you have to do is put together all the things that consumers want. It makes for a very heavy-handed—*[Interruption.]*

The Chair: I'm sorry, Hugh, could you please pause for a moment? We have a noisy bell. It is gone now, so please carry on. Can you start that sentence again?

Hugh Savill: Worse things might happen at my end.

John Glen: We won't go there.

Hugh Savill: The fact is that consumers expect different things; they have different traditions. Introducing conduct regulation at the international level—setting what people expect from their bank, so that it fits the conditions in Japan, Brazil and the UK—is too big an ask. You will end up with a very unwieldy rule book that is not particularly suitable for British consumers. We think the retail conduct rules need to be set with British consumers in mind.

John Glen: Thank you very much, Hugh. I will pass you on to Pat.

Q160 Mr Pat McFadden (Wolverhampton South East) (Lab): Good afternoon, Hugh. I want to follow on from the questions that the Minister asked you. I think it is fair to say that ABI has been a part of the financial services sector that has perhaps been more critical than others of the way that EU directives have applied to your sector. Given that the Bill onshores quite a lot of that regulation and gives it to the UK regulators, what differences are you hoping for in the way you will be regulated in the future compared with these directives, which you have been unhappy with in various ways?

Hugh Savill: I should say that we are equally blunt when we see shortcomings in British regulation, as well as European regulation, but, yes, we have criticised some of the European rules. In effect, the Bill sets out the first step towards a UK regime for financial services, and there will be others that follow. Really, this needs to be tailored to the needs of the British market—first to the needs of British consumers and secondly to the needs of British providers of financial services. Now that we have left the European Union, we think that is the way to go forward, and that is what we are hoping our legislators and regulators will concentrate on.

Q161 Mr McFadden: Can I go back to the issue of Gibraltar? Gibraltar has lots of friends across the parties in Parliament, and the Bill sets out a special regime for Gibraltar. Given the generous access to the UK market envisaged in the Bill for Gibraltar-based firms, is there any risk or danger that UK-based insurance companies might have reasons to relocate to Gibraltar and do their business from there?

Hugh Savill: I would be surprised. Ideally, what the Gibraltar authorisation regime sets out is the same basis, whether you are doing business in the UK or from Gibraltar. It is quite an enterprise to move your business to Gibraltar, and I am not certain you would be able to take all your skilled people with you. It is expensive to shift domicile like that. I see no big advantage in firms that are servicing the UK market from the UK moving to Gibraltar. Most of the Gibraltarian firms that have moved into the UK market, particularly the motor market, have done so as new entrants.

Q162 Mr McFadden: Is there any tax advantage to being located in Gibraltar?

Hugh Savill: I will have to let you know on that point. I believe there is a small value added tax advantage, but I will let you know that in due course.

Q163 Mr McFadden: Okay. Is there a particularly good reason for creating this sort of regime for Gibraltar, but not having something similar for, say, the Channel Islands, the Isle of Man or other Crown dependencies elsewhere in the world?

Hugh Savill: They are all slightly different circumstances. I am by no means an expert on the relationship between, say, the Channel Islands and the UK, Gibraltar and the UK, and so on. What was unusual about Gibraltar was that it was part of the single market in a way that the Channel Islands were not, so you had an existing passporting arrangement between Gibraltar and the UK, which, for the sake of the smooth continuation of the motor market, would be helpful to continue.

Mr McFadden: Thank you very much. I don't have any further questions.

The Chair: So we go to the Scottish National party spokesperson, Alison Thewliss.

Q164 Alison Thewliss (Glasgow Central) (SNP): The briefing that you provided on the Bill mentions referring any disputes to the Financial Ombudsman Service. Can you tell me a bit more about how that works at the moment and your fears about what the proposals might mean?

Hugh Savill: There was a question about whether British consumers who were using Gibraltarian firms had access to the Financial Ombudsman Service in the UK. We think it is extremely important that all British consumers have access to the Financial Ombudsman Service—it looks at individuals' difficulties in a way that other regulators cannot. I am particularly pleased that that has been clarified in the Bill. Let us hope that it works well.

Q165 Alison Thewliss: Are there any other risks to consumers within the UK from this move?

Hugh Savill: I never say never, but all the people who operate in the British market are subject to the conduct rules of the Financial Conduct Authority, so I think there should be the same standards for those selling from Gibraltar as in the rest of the UK.

Q166 Alison Thewliss: Do you think that consumers are aware of where their insurance policies are coming from? Will this lead to people thinking about that a little bit more?

Hugh Savill: Some of them will be, some of them will not. I am not a great reader of the small print in my insurance policy, any more than anybody else is, but if we have a similar regime, I hope that that would not be a major preoccupation of somebody buying an insurance policy.

The Chair: I open the questioning to other members of the Committee. Does anyone else have questions? I call Miriam Cates.

Q167 Miriam Cates (Penistone and Stocksbridge) (Con): You said that consumers expect different things in different markets. In your briefing note, you said that the Bill will allow the FCA to develop a methodology that is more accurate and that works for the UK market. Can you give an example of a characteristic that is specific to the UK market and how the Bill will help to meet those expectations?

Hugh Savill: If you are buying insurance in the UK, you tend to buy it online for general insurance, or you will quite often use an independent financial adviser to buy life insurance and savings policies. That does not happen on the continent of Europe. There, there is a little shop in most small towns, and people go and buy their general insurance from that shop. If they want savings policies, whether that be insurance or other kinds of savings vehicles, they will go to their bank, so it is a completely different approach and entry into financial services.

Q168 Andrew Jones (Harrogate and Knaresborough) (Con): Thank you very much for giving evidence today, Hugh. One quick question about the market access arrangements: do you think there will be any price implications from those for UK consumers? Could we see price inflation via premiums increase as a result?

Hugh Savill: Sorry, from the market access arrangements, did you say?

Andrew Jones: Yes, just generally. We are seeing a large provider have access to our markets. That could traditionally see increased supply. Increased supply tends to mean price competition, with consumers benefiting both in quality and innovation of product and in the price they pay for it, but equally it can work the opposite way. So do you think there will be any price implications for UK consumers as a result of these measures?

Hugh Savill: I do not think they would be because of these measures, in that the suppliers from Gibraltar already have 20% of the market, and it is not this Bill that is going to change that. There will be changes in price—there are always changes in price, and there will be other things that drive that—but I do not think that will be driven by this Bill.

Q169 Stella Creasy (Walthamstow) (Lab/Co-op): You suggested there was a small VAT benefit to companies being based in Gibraltar. Obviously, this legislation would remove any other bar in terms of being based in Gibraltar but still being able to operate in the UK. Could you clarify what you mean by a small VAT benefit?

Hugh Savill: That is why I offered to write. I am afraid I do not know exactly what the VAT arrangements are, and I will have to write it down. If I said any more, I would get something wrong.

The Chair: So that will be followed up by letter?

Hugh Savill: Yes, absolutely.

The Chair: We await it with impatience.

Q170 Alison Thewliss: I am happy to let other Members come in if they have questions, rather than hog the platform. There were some comments on equivalence in the briefing you put together. Can you tell us a wee bit more about your thoughts on equivalence both in the wider sense of it being used as a potential political weapon and in the narrower sense of what happens to investors if equivalence is withdrawn?

Hugh Savill: We do not think very much of equivalence as a means of arranging market access. As set out by the EU, it is extremely easy to end equivalence and to leave both provider and client hanging and not knowing where their policy is going to go. We also think that the European system of equivalence is far too open to political interference in what ought to be a technical matter.

This said, if I look back to the Chancellor's very welcome statement last week, in the supporting document to that, the Treasury set out a far more grown-up view of what equivalence ought to be—a rather more technical decision, where there is open consultation and a discussion between the two jurisdictions, that is actually looking for a long-term relationship between the two jurisdictions, and that cannot just be terminated at short notice. On equivalence generally, we really do not think much of the way that the EU runs its equivalence regime. We are very reassured by the vision of equivalence that the Treasury has put out.

Turning to the detailed point about those accessing the overseas fund regime, what is important is that, in the unlikely event that a trusted jurisdiction moves out of trusted jurisdiction status into untrusted jurisdiction status, there are, as the Bill suggests, mechanisms for ensuring that customers are not orphaned from their provider. That is extremely important, particularly when you have some long-term contracts such as annuities.

Q171 Alison Thewliss: What further information do you think would be required for people who have invested, to give them further reassurance?

Hugh Savill: I think they should have enough reassurance here. The overseas fund regime allows investors to access a much wider range of funds than would otherwise be available. As I said, choice is a good thing. It gives a wider choice and, ideally, better products and prices. I think the safeguards are there.

Q172 Alison Thewliss: I am just curious because you said that, for the regime to fully work for customers, situations such as this need to be clarified. I thought that you were asking for further detail or reassurance.

Hugh Savill: Not at the moment, no.

Q173 Mr McFadden: I had a further thought on the question of tax advantage. A quick search tells me that Gibraltar's corporation tax level is 10%. There may be some caveats around that—it was a quick search—but if that is the case, that is quite a hefty advantage for a company, compared with the UK rate, is it not?

Hugh Savill: I am not aware of the corporation tax differences between the UK and Gibraltar, so, again, I am sorry but I will have to cover that in my reply later.

The Chair: Thank you. This letter is getting longer.

Hugh Savill: Do not worry—I will not make it too long.

The Chair: Good, good. If there are no further questions, all that remains is for me to thank you, Hugh, for your evidence as our first witness this afternoon. We finished a bit ahead of time. Thank you for that.

Examination of Witness

Duncan Hames gave evidence.

2.22 pm

The Chair: We move on to our second witness this afternoon and the only one who is appearing in person today. Duncan Hames is no stranger to this place. He is now from Transparency International. Duncan, do you want to introduce your job title for the record, and what you do?

Duncan Hames: Yes, happily. My name is Duncan Hames and for more than the past four years I have served as the director of policy at Transparency International UK. Transparency International is part of a worldwide anti-corruption coalition, and because those engaged in corrupt activity need to launder the proceeds of their crimes, we have become quite knowledgeable about the practice and policies around the prevention of money laundering and the need to have effective supervision and enforcement.

The Chair: We have until half-past 3 for this session, so a good long time. Unusually, we are going to the two Opposition spokespeople first, and then to the Minister. We are shaking it up a bit. We will start with shadow Minister, Pat McFadden.

Q174 Mr McFadden: Thank you, Dr Huq, and thank you, Duncan, for coming. Let me first ask a broad question. On transparency, when you look at the regulators' duties as changed by the Bill, do you want to see any additional duties placed on the regulators on the transparency front, or do you think they are properly armed and equipped as they are?

Duncan Hames: There is much in the Bill that I am not qualified to comment on, but certainly in relation to regulatory duties around money laundering it is our contention that the challenge is as much about means of implementation and the expectations placed on the private sector in relation to supervision, which needs addressing. There is an analysis—in fact, it was probably our conclusion on seeing the Financial Action Task Force evaluation—that there are many good policy measures in place, but that they are yet to be fully implemented, and therein lies the nub of this problem.

Q175 Mr McFadden: Do you want to see more duties on companies or do you think that, at least on paper, the duties on companies in terms of corporate declarations and so on are currently fit for purpose?

Duncan Hames: We have found with the UK Bribery Act 2010, which has been in force for 10 years now, that a "failure to prevent" offence within that legislation has served to enhance corporate governance. That is not just our view; it was the conclusion of the parliamentary post-legislative review into that legislation a year or two ago. Government Ministers have expressed their interest in seeing that model—which they have described when introducing it in other areas, such as failure to prevent tax evasion, as effective—applied more widely in areas of economic crime. That is certainly something we would consider there was an opportunity for in the Bill.

Q176 Mr McFadden: We had a witness this morning from Spotlight on Corruption, who argued for the addition of a "failure to prevent economic crime" measure to the Bill at the appropriate place. Is that something you would support?

Duncan Hames: Yes, we would. That is separate to the discussions about the identification doctrine, on which, as I am sure you will be aware, the director of the Serious Fraud Office has frequently shared views and on which now the Law Commission has been invited to bring forward its own options for reform. These are complementary measures.

We now have a "failure to prevent" offence in relation to two areas of offending: one, the Bribery Act and, two, failure to prevent the facilitation of tax evasion. Applying a "failure to prevent" offence more widely, while still considering reform of the identification doctrine in regard to the substantive offence, would be entirely complementary, rather than the House having to consider doing one or the other.

Q177 Mr McFadden: I suspect if we got into this in Committee, on Report or wherever, the counter-argument would be, "Look, the Law Commission has just launched this great consultation, and we should not be pre-empting that by jumping to a conclusion. We might do this, but we have to wait for the Law Commission." What is your response to that argument, in case we hear it at some point?

Duncan Hames: If I were in the business of money laundering, I would be laughing at the glacial pace at which reform happens. So I would counsel against waiting. As I say, we have two "failure to prevent" offences, and it would be entirely possible to apply that more widely in economic crime. Sadly, it has taken the Government over three years to reach their conclusions in response to the call for evidence on failing to prevent economic crime, and Law Commissions are not generally considered to move more quickly than ministerial responses to consultations. I would not want to estimate quite how long we will have to wait before the conclusions of the Law Commission are enacted in law. I think that is plenty of time to put in other measures, which will help the corporate sector improve their corporate governance, as we have seen in the case of Bribery Act.

Q178 Mr McFadden: In terms of potential amendments to the Bill, that would be top of your list. Are there any other areas that you think could usefully be amended or added to?

Duncan Hames: I certainly think we need to look at the area of supervision. This is a regulatory function. We have private sector supervisory bodies tasked with helping the business sector to put in place the necessary preventive measures to prevent money laundering.

While we welcome the introduction of the Office for Professional Body Anti-Money Laundering Supervision a couple of years ago, its reports—these are not activist or campaigner reports; these are Government regulatory reports—have been very damning of the effectiveness of the supervisory bodies. It is very fragmented—I think there are 14 supervisory bodies for the accountancy sector alone.

OPBAS has identified conflicts of interest between the advocacy and supervisory functions of those bodies. The effectiveness of their enforcement activity is really inadequate. If we take Her Majesty's Revenue and Customs as one of the supervisory bodies, the fines imposed are barely a couple of thousand pounds and will quite possibly be less than the value of the commission or fee on any individual transaction. That is clearly an inadequate incentive for private sector actors to say no to handling illicit funds.

The quality of the money laundering defences in the private sector has also been found to be poor. The Solicitors Regulation Authority recently conducted reviews into about 60 companies. In nearly half of those cases, they are pursuing the findings they had for potential disciplinary action. A similar proportion of cases were found to be areas of weakness in money laundering defences in other sectors.

So we have a problem with supervision. The first line of defence against money laundering is tasked to the private sector, and yet the supervisory bodies that are meant to ensure that that is being done well, both in terms of guidance and in subsequent enforcement of regulations, are not effectively ensuring that those defences are good.

At the end of the day, the police estimate that the impact of money laundering on the UK economy is of the order of £100 billion a year. We can have lots of good measures and lots of good policies, which at times the Government will have been congratulated for, but the upshot is that we still have a big problem, which is not going away. That is why we think taking action where we can to improve the defences is urgent.

Q179 Mr McFadden: The last thing I wanted to ask you is about the most recent FinCEN files. This all comes out through the United States authorities. We find out about the actions of British financial institutions through the actions of a regulator in another country. How would you fix that so that the actions of UK companies are uncovered and publicised here, rather than coming out through another body in another country?

Duncan Hames: We have to recognise that the FinCEN files were a leak; I would want us to be hearing about suspicious transactions as a result of enforcement having been taken by law enforcement agencies. It has been a concern of the now Secretary of State for Justice that too often we see enforcement, effectively, outsourced to the United States authorities. I do not think that is good for the corporate reputation of UK plc, and I do not think it is how we would want things to proceed as Britain defines a newly independent role in international commerce.

Mr McFadden: Thank you. I will stop there.

Q180 John Glen: Good to see you, Duncan. You have offered a wide-ranging critique on general aspects of anti-money laundering and anti-corruption matters. You

[John Glen]

rightly draw attention to the FATF report, which was generally, in the international context, seen as a very favourable assessment of the UK. Department for Business, Energy and Industrial Strategy activities include the Companies House review, the registration of overseas entities work and the limited partnerships reform.

This Bill ensures that HMRC retains its ability to access information on the ownership and beneficiaries of UK-linked overseas trusts, building incrementally on things that have been done previously. Can you explain why this information is important? This is a key measure and, I would have thought, the most relevant.

Duncan Hames: It is certainly a welcome measure. We have found that some of the complexities of the structures and design of different corporate entities have proved difficult, in terms of the implementation of existing legislation. That was a feature of the recent Baker et al case in relation to appeal against an unexplained wealth order; there was a South American foundation, which was perhaps not the corporate structure that Members of this House had in mind when that legislation was being decided.

Addressing trustees and overseas entities, to strengthen and ensure there are no loopholes in existing legislation, is definitely to be welcomed. In the past, when the House has been considering legislation to address money-laundering risks—do not forget that another piece of legislation related to leaving the European Union is the Sanctions and Anti-Money Laundering Act 2018—it has focused on what can be done about the transparency of ownership, and not just of UK limited companies but of overseas entities, too.

Q181 John Glen: In your comments to the shadow Minister you referred to the glacial speed of activity in the UK, but we have, as you have acknowledged, now transposed the fifth anti-money laundering directive into law, in line with our international obligations. I recognise that this morning we heard evidence about what Germany and Holland will be doing in the future, which we reserve the right to look at. Last year we also published the economic crime plan, which was about bringing public and private sector enforcement closer together. Do you have any observations on which elements of that are most integral to improving the situation and where emphasis should lie?

Duncan Hames: Certainly. Although some of the things we have already discussed this afternoon are not in the economic crime plan, there is much in that plan that we welcomed at the time. It was about 15 months ago that that plan was adopted by the Government. Some of the measures in that plan require legislation, and I am sure the Minister is itching for legislative opportunities to enact his policy.

John Glen: Always!

Duncan Hames: For example, there is the reform of Companies House, to ensure it can verify the accuracy of the data that is on the UK registers.

Q182 John Glen: The consultation is under way on that.

Duncan Hames: Indeed. I think we have recently completed a consultation on it, and I hope, therefore, that it will be in the Queen's Speech.

The register of beneficial owners of overseas entities enables us to know who really owns the foreign companies that own property real estate in this country. It was a Government commitment announced around the time of the London anti-corruption summit, which was four and a half years ago. Although that legislation has already been through pre-legislative scrutiny in both Houses, the conclusions of which were, "Get on with this; we must advance quickly," it still has not been brought forward. These are both measures in the economic crime plan. It is great that they are in the economic crime plan, but it would be much better if they were implemented. I hope that that will be addressed very soon, but, equally, given how long one waits for legislative opportunities to keep up with the pace of nefarious actors in economic crime, if you have an opportunity to make progress in this Bill, in any additional manner, we would obviously be keen to see you take it.

Q183 John Glen: May I just ask one further question? You referred to OPBAS and the different bodies that regulate different entities, such as the Solicitors Regulation Authority. I have had a lot of interaction, as the Minister, with representative of those bodies, on a regular basis, during my tenure, and obviously HMRC works with them to try to identify best practice and improve what they do. Are you saying that that fundamental organisational entity is not appropriate? I am just not clear exactly what you think should be the alternative. I think the argument would be that those membership bodies contain the expertise within the different sectors, which have very specific entry points and risks, and therefore they need to be dealt with collectively as an entity. What is your view? Is just an anti-private sector view, or a measure to deal with that? What would you see as a meaningful alternative?

Duncan Hames: I think we would see the creation of OPBAS as a very helpful staging post in addressing this problem of inadequate supervision, albeit that it can address and challenge only the professional body supervisors. HMRC has been found wanting, and I have already criticised the level of its fines. OPBAS cannot do anything about HMRC, and I think we have been party to discussions about that in other proceedings of the House.

What OPBAS has found is pretty devastating. In its 2018 report, 62% of accountancy supervisors had some overlap between their advocacy and regulatory functions. Those represent a conflict of interest. There are some really choice quotes from OPBAS in that report, about what supervisors said about the impact on their membership income, were they to take more assertive enforcement action. That really is a conflict of interest in these supervisory bodies.

I think what we need, Minister, is for you or your colleagues to have the ability to respond to these reports—I think we have now had two annual reports from OPBAS—and, where necessary, to strip the supervisory duties from bodies that are failing in this regard. Obviously, all bodies should address their own conflicts of interest, but performance is a really important issue.

The report I was referring to earlier was HMRC finding that about half of the businesses it had reviewed were non-compliant with its anti-money laundering regulations. So, the changes that have been made recently to the regulatory landscape, in and of themselves, are not enough to address the holes in our money laundering defences that are overseen by this very fragmented regulatory arrangement. I said there were more than 14 accountancy sector supervisors; I think we are at 25 anti-money laundering supervisors, altogether.

The Chair: I call the third Front Bencher, Alison Thewliss, for the Scottish National party.

Q184 Alison Thewliss: Thank you, Dr Huq. I agree with a lot of what you have said, Duncan. Having served on the Joint Committee on the draft Registration of Overseas Entities Bill, I am also hugely frustrated that nothing really has happened with that, since all the evidence was given and the recommendations to Government were quite clear. Are there any other aspects you have not touched on so far where you feel this Bill is a missed opportunity, and where amendments could easily be tabled to improve it?

Duncan Hames: We might want to talk about beneficial ownership transparency. As I say, Ministers had a duty placed on them in the Sanctions and Anti-Money Laundering Act in relation to Britain's overseas territories and what would need to happen if they did not adopt public registers of their own volition, and I think they have found that duty helpful. Certainly at a diplomatic level, Ministers in the Foreign Office would celebrate the statements that have been made by those overseas territories as that deadline has approached. That is illustrative of how effective using legislation like this to convey a duty on a Minister can be, in order to rachet up the pressure for change.

The problem we have, of course, is that in some cases, those overseas territories are quite grudgingly coming around to this position. The last statement to complete the set was from the British Virgin Islands, and in his statement the Chief Minister—having agreed to the things the Government were hoping he would agree to—started to list a whole list of reservations and conditions, and concluded by saying that of course, this would only happen at a pace at which they consider deliverable. That does not fill me with hope that, without further incentive or, ultimately, the threat of action through Orders in Council, this will actually happen, which brings me back to my original point about implementation. It is one thing to have the policy—another, even, to have the laws—but if we have not had the implementation, we have not really changed anything. I would encourage you to look at what levers you might be able to grant Ministers through additional measures in a Bill such as this.

Q185 Alison Thewliss: Indeed. I remember from previous conversations about the overseas territories and Crown dependencies that they were essentially turning things back on to us and saying, "Get your own house in order as well", in terms of Companies House and other accuracy issues and registers here. Is there anything further on that that you think ought to be in this Bill?

Duncan Hames: That is a creative tension, isn't it? I think we should welcome international scrutiny of the effectiveness of our own measures. As the Minister said, there has been a consultation about new powers and duties for Companies House, in relation to the quality of the data we have. We are already beginning to see signs of a cultural change in Companies House as a result of the directions it is being given and the anticipation of future legislation. We need it to be a partner in preventing crime, not just a registrar—not just providing a service to companies that wish to be registered.

As I say, we recognise the pattern of change there, but ultimately it has to work within the law, and if the laws do not empower it to take the actions necessary, we need to change that. We are anticipating that the Government will bring forward legislation, so that when we are trying to persuade other financial jurisdictions to address their own contribution to money laundering, including in Britain's family of offshore financial centres, we are able to hold our head up high and know that we are doing everything we can to ensure that the quality of our own defences is adequate.

Q186 Alison Thewliss: I absolutely agree. You talked about the outsourcing of regulation. Do you think Parliament needs to have more of a role in terms of scrutiny, rather than handing things over to regulators? My concern is that once we hand everything over to the FCA and the Prudential Regulation Authority, we will not really know that there is a problem until something gets too big.

Duncan Hames: I suspect that it is Parliament's role to hold Government to account for acting on what those regulators are finding. They are often quite forthcoming in their criticisms of where things are going wrong, but they need the frameworks in which they can act on that. As I have said, I think the powers rest with Government to strip supervisory bodies of their duties where they are failing, but I cannot think of a time when it has happened. I believe OPBAS has provided plenty of evidence—indeed, unattributed in some reports—but I am sure it could point the finger for Ministers where necessary, in order to be able to take action.

Q187 Alison Thewliss: Is there more that could be done in the Bill to open up trusts and make them more open to scrutiny?

Duncan Hames: I think trusts are intended to be in the scope of the registration of overseas entities Bill. That is definitely something required by the fifth anti-money laundering directive as well, so we should consider them within scope. Whether we have yet got that working, I am not so confident. For example, if we take something that I am sure is of interest to you—Scottish limited partnerships—the Financial Action Task Force report, which the Government are very pleased with, noted that there remains a weakness in terms of scope for abuse of that corporate structure. I should acknowledge that those are regulated by UK law, not by decisions made in Scotland. Those partnerships can be partnerships with two corporate entities—so, no human personality. If those two corporate entities are registered in jurisdictions where beneficial ownership is not clear—it is not public—we essentially have a UK entity that has got around all of the strictures that the Government are very proud of, in terms of the transparency that the UK's own registry demands.

There are other issues with having corporate partners of a legal partnership. Obviously, it all comes down to accountability. It is very important if we want to be able to hold corporate entities accountable for their role in economic crime. I am afraid that many such complexities remain to be addressed. We cannot just take the bits we like when a report like that is presented.

The Minister is correct: the UK outcome was very favourable compared with other FATF evaluations. I hope, by the way, it will give the Treasury the confidence next time around to invite civil society representatives to give evidence to the FATF assessors. None the less, FATF came up with a number of things that it identified needed to be addressed, and the Government have a plan, but we seem to lack a timetable for implementing a number of these things. If the Minister is able to give us a timetable for when the legislation to introduce measures such as robo, which is in the economic crime plan, will be introduced, I think we would all be very glad of it.

John Glen: The point is, as Duncan well knows, that a whole range of interventions have been provoked by that FATF report. I am glad he acknowledges its world-leading nature for the UK. It is good that we should be pleased about that, but there were significant elements that need to be worked on. They are obviously taken in different ways across Whitehall, and there will be more to be said about that in due course. I am responsible for what I am responsible for in this Bill, and the purpose of this conversation is about that.

Q188 Alison Thewliss: An issue that I have around SLPs and enforcement is the fines. Is there work to be done within the scope of the Bill to increase fines in any of the parts mentioned? You mentioned earlier that the level of the fines is minuscule compared with the profits made.

Duncan Hames: I doubt you need primary legislation to fix that. I expect that secondary legislation giving direction to Ministers and regulatory bodies to ensure that fines are commensurate with the level of offending would be helpful. I suggested that the level of fines by these professional bodies supervisors and by HMRC is just not commensurate with the financial advantage of taking part in these transactions.

Indeed, if you are a solicitor, and someone complains to the Solicitors Regulation Authority about you because you have been holding up a transaction, that will still be investigated. You will still incur quite a discomfort in responding to that investigation. That is quite a powerful incentive just to go along with the transaction, whereas the fine you might receive for having gone along with a transaction that you should not have could well be less consequential for you. That needs to be addressed.

Fines wielded against trust and company service providers by HMRC, for example, are pitifully low. We were told by the trade body that its experience of fines imposed by HMRC on trust and company service providers was typically no more than £1,000.

Q189 Alison Thewliss: Even when fines ought to be due, they are not enforced. I ask periodically about Scottish limited partnerships and how many people have been fined for failing to register a person with significant control. Every time I ask, it is not in, which is ridiculous. My last question is about the issues to do with Gibraltar. Do you have any concerns about that, or anything that the Committee ought to know?

Duncan Hames: I do not think that the measures with regard to Gibraltar particularly focus on money laundering. Obviously, Gibraltar is covered by the fifth anti-money laundering directive. I think they would consider themselves to be among the earlier adopters of the measures required under that directive. What we see in the Government's language is an emerging global standard. That has been recognised in the past year or so by the Crown dependencies and, increasingly, by British overseas territories.

Although the US starts from a very far-back position on public beneficial ownership transparency, on the basis of bipartisan—as I think they call it, or on both sides of the aisle—working on this issue, even with a Republican Senate it seems set to advance new regulatory requirements around a central register of beneficial ownership. The tide is definitely moving in the direction of greater transparency. I think it would help British overseas territories to be encouraged to keep up with that direction of change.

Q190 Julie Marson (Hertford and Stortford) (Con): Thank you for your evidence; it is really interesting and this is an important area. We have heard reference to—you used the phrase—the UK outsourcing the prosecution of financial crime to the US. I am sure you will correct me if I am wrong—I do not have it in front of me—but on Transparency International UK's own list of corruption, the UK comes out 12th out of 198, whereas the US comes out at 23rd, so by comparison with the US, the UK does very well.

I am interested to hear your reaction to the criticisms of the report that that phrase came from. It was felt that the scope of the report did not include, for example: the bribery and corruption statistics, including on the "failure to prevent" provisions; the period after the financial crisis, which meant that much implementation was not included in the report; or the way prosecuting in the US often involves plea bargains, which are used to extract fines, so the measurement of the extraction of fines is not necessarily a justified comparison between the UK and the US. What is your reaction to that?

Duncan Hames: The corruption perceptions index measures views of the prevalence of corruption in public sectors, whereas for the most part here we are talking about enforcement of corporate wrongdoing. None the less, you are right to record where those countries are in the index.

"Exporting corruption", our recent report produced for the OECD anti-bribery working group—part of a series of reports published every other year—is the one in which the UK is recognised to be an active enforcer of anti-bribery laws and laws to prevent foreign corporate bribery. None the less, the US is top of the table and, while it is good that Britain remains an active enforcer, the calculation that grants that assignation is such that the UK hung on by a hair's breadth this year and there is no room for complacency.

The statement that I reference from the Secretary of State for Justice was made when he was Solicitor General, at the Cambridge International Symposium on Economic Crime. His words were that these differences in how the law operates

"result in other jurisdictions holding British companies to account where ours has not."

He said he was making that observation in an argument in favour of moving towards the "failure to prevent" approach to economic crime.

For all of America's challenges, I do not think anyone would criticise it for being less assertive in enforcement of the law that it has. Even at a time when one might have feared political interference or the undermining of the Department of Justice, its level of enforcement has remained high, without signs that it is falling back. I think we have to reflect on why that is. It is partly to do with resourcing, but it is principally to do with the challenges of our arrangements for prosecutors.

Lisa Osofsky, the director of the Serious Fraud Office, describes what we have as "a very antiquated system". She said:

"We are hamstrung right now by the identification principle".

She explained to the Justice Committee that she can "go after Main Street"—forgive the American references; I am sure you will be able to translate them—but she

"cannot go after Wall Street, and that is unfair".

When we think about the businesses that each of you represent, you would want there to be a level playing field, where traditional businesses with perhaps traditional ownership models are not facing a greater requirement to uphold the law than much larger, perhaps more anonymous, conglomerates in complex corporate structures spread over many jurisdictions.

Q191 Julie Marson: You mention Lisa Osofsky. I was looking at various practitioners who work on fraud and corporate fraud, and they have welcomed the fact that the Law Commission is going to conduct a review. It is easy to scoff, I suppose, about, "Let's wait to the end of the review," but this actually has huge cost implications for business. It is a very complex area. Those practitioners have actually said that it can only be a good thing that the Government are not amending the current law without full consideration and that the Government are taking a very measured approach.

Duncan Hames: I think Ministers observed that responses to the consultation were mixed. It is regrettable that responses to the consultation are not public and people can form their own views about them. If you conduct a consultation about enforcing criminal law and those who might be subject to that enforcement, in a way that they are not currently, are able to make submissions in response to that proposition, then one would hope that in evaluating those responses they would not carry the same weight as more objective respondents. If we were asking how much chicken wire we should put around the hen coop, I would hope that we would largely disregard the foxes' views.

Julie Marson: That is an interesting comparison.

Q192 Stella Creasy: I was thinking more of asking turkeys whether Christmas was a good idea. I want to follow up on this, because I have been waiting for the Law Commission on another piece of work that I worked on, which is already a year and a half overdue. It is not connected to financial services, but it indicates some of the challenges of waiting for the Law Commission to follow up on the FATF report, which makes some specific requirements about Gibraltar. This legislation is about the ability to trade between Gibraltar and the UK.

I want to ask your opinion on whether we might be able to learn from the specific proposals in that report. In particular, it recognises that although this does tend to happen, there is no legal requirement to reject applicants with a criminal background in Gibraltar. If we will allow Gibraltar and the UK to operate in the way that this Bill does, do you think we could make it a requirement in the Bill to look at the criminal background of people applying for financial services?

Duncan Hames: I should acknowledge that Gibraltar is not within the scope of the work that I do. I will not profess expertise on the rules as they apply in Gibraltar. I think Bloomberg reported today on a bank in Luxembourg and some of its practices. You ask a good question about the personal credentials that enable one to take on responsible roles in our financial system, whether in banks or other institutions.

I note, for example, that the proposals in relation to Companies House are not that it should be more discerning in the acceptance of the directors of companies registering, but rather that it should simply verify the accuracy of the identity and the information provided. Current initiatives do not go as far as you are suggesting would be reasonable. It seems hard enough just to get us responsible for ensuring the accuracy of the data, which is provided as a piece of our economic infrastructure, without getting to a position of demanding some kind of individual assessment.

Q193 Stella Creasy: I am just following up on what the Minister said. He was looking at what he could do to address some of the things that came out of that report. I appreciate that you are not particularly sighted on Gibraltar, but the FATF report also says that there is no dedicated supervision of accountants and tax advisers in Gibraltar, which means that they are perhaps not as cognisant of where people might be trying to launder money. Given that the Bill gives us powers of lines of sight into Gibraltarian firms, do you think that is something we should consider in this legislation, so that when we allow Gibraltarian firms to operate in the UK environment in the way that this Bill does, we could build in some of those safeguards now, with a view to then extending things when the Law Commission eventually reports?

Duncan Hames: Dedicated supervision of the accountancy sector is part of what has got us into this mess of having 25 supervisory bodies. I think one must weigh the benefits of particular sectoral knowledge and some of the issues I raised earlier around potential conflicts of interest and incentives to supervise assertively. As we explained in our report "At your Service", which was published about this time last year, it is definitely the case that the non-financial sector is very much touched by the money laundering problem. It is not enough to rely on the requirements of banks without raising our defences in other sectors—whether that is accountants, solicitors, estate agents, trust and company formation agents and so forth. In some areas, such as private education or charitable giving, an educational training supportive approach might be appropriate to try to raise standards, but in other areas, as I have outlined, clear financial incentives need to be addressed. A firmer approach to supervision is proving necessary given the findings of, for example, the studies that I cited from HMRC, the SRA and OPBAS.

The Chair: If there are no further questions from the Committee, I thank Duncan Hames for his evidence and we can move on to the next witnesses.

Examination of Witnesses

Jesse Griffiths and Fran Boait gave evidence.

3.11 pm

The Chair: We will now hear from Jesse Griffiths and Fran Boait, who are from Finance Innovation Lab and Positive Money. We have until 4.15 for this session. Jesse and Fran, do you want to introduce yourselves?

Fran Boait: I will go first. I am the executive director of Positive Money, a non-profit organisation that campaigns and researches on reform of the money and banking system to enable a fair, democratic and sustainable economy.

Jesse Griffiths: I am the CEO of Finance Innovation Lab, a charity that helps people to try to transform the financial system for people and the planet.

The Chair: Thank you. We will return to the traditional format with questions first from the Minister and then from the two Opposition spokespeople.

Q194 John Glen: Thank you, Jesse and Fran, for your willingness to come before the Committee. One of the key elements in the legislation is the need to give our regulators significant delegated powers to implement and enact some of the technical standards. From your perspective, as civil society organisations influencing policy in financial services, how do you engage with the regulators and how do you find that process?

Fran Boait: Shall I kick off? This is definitely one of the key issues in the Bill that I wanted to raise. Although I understand that the Bill is about regulation and tidying up a few things, it does set the framework and direction for future financial regulation. It is important to say at the outset that we are only 11 years on from a global financial crash that resulted from deep regulatory failures. Neither my organisation nor Jesse's existed 10 years ago—they were formed since the crash. Without a number of amendments to the Bill, it could pave the way for a repeat of that failure.

To put it in context, I remind you that, according to the Bank of England's chief economist, Andy Haldane, the banking cash cost Britain about £7.4 trillion and it would take the financial services sector's tax contribution about 100 years to make up for that. It is a really important Bill that sets the direction, but accountability and transparency are severely lacking in its current form. The civil society sector is tiny, relative to the industry lobby. Although we have engaged in FCA and PRA consultations, the fact that we are onshoring so much legislation right now means that we need to think about the balance of input from the industry and civil society. It is worth noting that the EU, which obviously to date has been where the scrutiny for much of this legislation has been, funded civil society consumer, environmental and social groups in order to provide a balance to the industry lobby, because it recognised that this area is severely complex and critical.

The substantial transfer of power to the financial regulators—the Treasury, the FCA and the PRA—is concerning if there are not increases in parliamentary scrutiny and more detail about the accountability framework. I noted this morning that a number of amendments have been put forward, and I think a lot of them enhance accountability and require parliamentary scrutiny and reporting. I would really welcome that. I could list them—I have some of the numbers. An MP put forward a suggestion for a new specialist financial services Joint Committee between the Commons and the Lords, and that would be welcome, especially if it engaged with civil society.

From where we are starting, in its original form the Bill really is quite concerning in relation to accountability and transparency, but we would welcome all the amendments being put forward—and more—to improve those aspects.

Q195 John Glen: Can I come back on that? Obviously, on 19 October the Government put out the future regulatory framework review, which looks holistically at the options for putting the future constitutional relationship between the Treasury, Parliament and the regulators on a firmer basis. The measures in this Bill have an accountability framework.

The Financial Services and Markets Act 2000, introduced under the previous Labour Government, was about setting an approach for how the regulators worked, looking at an outcome-based approach with the observation of technical standards. I note that you refer to the proposal about Parliament's role. Are you really saying that you do not support that fundamental architecture? Given the complexity of the regulations and technical standards, do you think it is realistic for Parliament, in terms of capacity and expertise, to offer the sort of scrutiny that you think is lacking?

Fran Boait: Fundamentally, we want robust frameworks that allow for input and do not just allow legislation, such as the capital regulation requirements, to be changed without scrutiny, because they have really significant consequences for the whole UK economy. That is why I started by laying out how critical the direction of financial services is.

It is worth saying that we are not out of the repercussions of 10 years ago, so we do not want in any way to go back to the days of regulation being done behind closed doors. I understand that there is a capacity issue, but is about having those opportunities for both Parliament and the wider public—civil society—to feed in.

It is also worth thinking about the regulators themselves. For example, one of the things that the new chief executive of the FCA has said is that they will also be liable for legal attacks on what they are having to implement, so putting all the onus on them is an issue. At the same time, we know that there has been an issue with the revolving door between our regulatory bodies—the Treasury, the FCA, the PRA and the Bank of England—and the industry.

There is a grave concern about this transfer of power. If capacity is an issue, Parliament surely wants to be looking at how to resource things better, in terms of more Clerks or staff, plus thinking about how the EU funded civil society, rather than saying, "Actually, no, it's fine. We will just have reduced transparency and accountability."

Q196 John Glen: I just want to make the point that that is not what we are saying. There is a review looking at this holistically—for, I think, 12 weeks—to provide an opportunity to absorb those very relevant points, but I would be very happy now to hand over to Jesse to respond to the same questions.

Jesse Griffiths: Thank you. I think they are extremely important questions, and that is one reason why this Bill is so important as part of the other important consultations and discussions that you have mentioned—because we are now setting, if you like, the precedent for how we might deal with financial sector regulation in the new era, where the focus will be in London and not in Brussels. Actually, I worked for seven years in Brussels on related issues, so I have some experience from there to share.

I think I agree with the points that Fran has made about the fundamental importance of trying to find ways to support broader civil society engagement in these types of discussion. Perhaps it links to another important point on the Bill, which is that part of the issue will always be ensuring that the purpose of the regulations and the regulators includes social and environmental purpose, so that it is clear that that is an extremely relevant angle from which to discuss these things. One thing that definitely came out of my experience in Brussels was that the role of Parliament is very important, or can be very important, not just because it is important in itself, but because it does open a window for broader input and discussion.

I will explain one particular amendment or change we would welcome. As I understand it, the current Bill allows changes to capital requirements and other regulations under the affirmative procedure. That is obviously more welcome than the negative procedure, but it does not actually specify a role for specialised Committees, so finding a way in which specialised Committees in the House of Common or Lords, or both, could have input would be both a useful step and an entry point for a broader discussion for groups likes ours to help to support the new framework.

Could I say one other thing on a kind of related point? We recognise that it is important that different institutions have different regulatory frameworks and that this is not just about making every single type of institution abide by extremely stringent regulations. That sort of principle is involved in the Bill, and we would welcome that being extended to, for example, the nascent mutual banking movement. We know that the co-operative banking movement is struggling to get off the ground, because the regulations are not tailored to its particular circumstance. I would be willing to talk more about that. It is something that could perhaps also accompany this Bill as a commitment and that Government might like to think about.

John Glen: I am very supportive of your observations there, and I look forward to further engagement on that. I think that, in fairness to other Members, I should now pull back and hand over to Pat.

Q197 Mr McFadden: Thanks to both of you. We had a bit of a discussion earlier about a suggested reform for preventing economic crime. We were saying that when we get into it, we are probably going to be told to wait for the Law Commission. I have a feeling that, on accountability, we are going to be told to wait for the future regulatory framework review to conclude, but I do want to ask you about this area and about the duties on regulators, and I would like to start with the latter.

The Bill, in schedules 2 and 3, sets out new accountability frameworks for the regulators. They are to abide by relevant international standards and to have regard to the relative standing of the UK as a place for internationally active investment firms to be based, or to other matters specified by the Treasury. I would like to ask whether you think it is appropriate for broader goals to be considered in that regulatory framework, and I am thinking particularly of environmental, social and governance goals. The UK wants to be a leader in that area. The Chancellor of the Exchequer set out an ambitious environmental agenda for our financial services industries in his statement about 10 days ago. Do you think that the Bill is an opportunity to put regulatory weight behind the ESG agenda?

Fran Boait: That is a really great question. It is definitely something that stood out for me when I first read through the Bill. The Bill sets the direction, and it needs to integrate the needs of the wider economy, social responsibility, the environment and thinking about how we set a direction that is different from the one that led to the global financial crash in 2008.

As you mentioned, there is clearly cross-party agreement, and we have had announcements from the Government this week and last week on wanting to be a leader in green finance, especially ahead of COP26. There is also pretty much cross-party agreement on issues such as the banking sector severely under-serving small and medium-sized businesses. In his speech yesterday, Andy Haldane, the chief economist at the Bank of England, mentioned that the funding gap is £20 billion. We know there is cross-party agreement on wanting more of our productive and manufacturing sectors to grow, and we need to level up. Some Conservative MPs, such as Kevin Hollinrake and Danny Kruger, have done reports on that and on the need for a different banking system. We have to recognise that that will all require quite a significant shift in the direction of financial regulation, yet there is not anything in the Bill that suggests that such a shift in direction is something that the Treasury is interested in at the moment.

We would certainly support the hardwiring of ESG considerations into the regulation. I looked this morning at the proposed amendments, and we would be very supportive of amendments 20 and 24, which have regard to climate and net zero in terms of investment firms and CRR—that is on climate and environmental. There are some other amendments on social practice and corporate governance that are really important, and there are potentially bigger amendments that we could be thinking about, which would embed sustainability in the regulatory framework of our regulators, such as the FCA and the PRA. That would involve further amending the Financial Services and Markets Act, which I know is being amended already in the Bill, but we could add an environmental sustainability objective, for example, to the FCA's or PRA's objectives.

It is worth noting that the UK's financial institutions are among the worst culprits in Europe for fossil fuel financing. HSBC and Barclays alone have funnelled about £158 billion into fossil fuels since the signing of the Paris agreement. If the UK really wants to be a leader in green finance in a serious way, we need our regulators to be on board with that mission. Obviously, that starts with this piece of legislation and others. We would fully support the amendments to the Bill that have been put forward already, and we would potentially suggest further ones.

Jesse Griffiths: I think that the absolutely fundamental issue with regards to the Bill is that it is an opportunity to put social and environmental purpose at the heart of both the regulation and the duties of the regulators. I do not think it would take a huge change, or huge amendments to the Bill, to set that precedent and really kick-start what I agree is a cross-party consensus that we need to deal with the climate crisis and the rising problems—inequalities caused by covid and so on—and that the financial system is central to that. How it is regulated determines a lot about how it will react to those points.

I can give some examples. Of course, it would be helpful if the Bill required the FCA to refer to the Climate Change Act when preparing secondary legislation. If you wanted to be more ambitious, it would obviously be helpful if capital requirements for investment firms introduced weightings on environmental, social and governance issues—for example, by penalising assets that have climate risks.

I know the Bill covers legislation on PRIIPs—packaged retail and insurance-based investment products—which is a huge, €10 trillion market in the EU. One specific example we have suggested is that, if we could improve the key information document that investors receive when they are looking at PRIIPs to include disclosure on environmental, social and governance issues, and ask the FCA to ensure that that happens, that would be an important signal.

I think that there are real opportunities here to change the nature of the discussion and set the UK as a leader in this area. We know that the direction of travel is towards much greater ESG integration across the financial sector. Investors are pushing for it. We do a lot of work with the big four banks in the UK, and many of them are pushing a purpose-driven agenda. It is the way that we are going, and I think about this as a real signal that the UK wants to be the leader in this field and takes it very seriously.

Q198 Mr McFadden: Thank you, both. The second thing that I want to ask you about is accountability. It is true that proper scrutiny of all this requires resources, but that is a question not just for Parliament but for the regulators, which are being given big additional tasks. You have indicated that you are in favour of a more active ongoing role for Parliament, and I would like to give you the chance to tell us a bit more about that. Obviously, the regulators have to have day-to-day freedom to apply regulation at the level of the individual firm, but you are absolutely right, Fran, that in the financial crisis capital was at the heart of this and how we regard that level of resilience for firms.

If we are giving the regulators these big new responsibilities, both at the prudential and the conduct level, how would a more active role for Parliament work? We have one Select Committee that is active in this area, which already has a really broad agenda of work—the Treasury Committee. We have members of it on this Bill Committee, and they all do a great job, but things are pretty thinly stretched. Could you tell us more about how you think Parliament could have a more active role after the onshoring of all this regulatory responsibility? Again, I will start with you, Fran.

Fran Boait: I think we agree that this is the critical part of the Bill. That is why I mentioned the suggestion that has been put forward of a new potential Joint Committee between the Commons and the Lords. That would be absolutely right. The direction of the financial services sector is fundamental to the direction of the UK. We are really at a crossroads. We have been a large financial sector in the world, and generally the Treasury would say that it has prioritised the international competitiveness of our financial sector in the global market. It has held that in greater reverence than domestic competition that serves the needs of the people—your constituents, your businesses and the productive UK economy.

I think it is in Parliament's interests to think about how we set up processes for greater scrutiny and about engaging civil society actors in that as well. I would have thought that quite a few people sitting within those regulatory bodies would welcome that. They are under immense stress from the last 10 years of post-crash change. As I mentioned, they are subject to legal challenge from the industry.

Although, ideally, there would be greater scrutiny in Parliament, and I think that a Joint Committee would be good, some of the amendments that have been tabled on specifics, such as an annual review of capital regulation requirements, are really great additions—I hope the amendment on that will go through.

I also think that we need to ensure that the regulators are given the right direction for financial services, which is why I would also welcome the amendment that was put to us about this Government's strategy for financial services. As I said, we are at a kind of crossroads, and understanding what direction the Government want to take it in is critical for the regulators. I support a lot of the amendments that have been put forward. Setting up a new Select Committee or some kind of Joint Committee is also a strong proposal.

Q199 Mr McFadden: Jesse, you have experience of this at EU level where they have the ECON Committee, which looks at things before they are implemented. We have also had a suggestion from the hon. Member for Hitchin and Harpenden (Bim Afolami) for some kind of specific financial services Committee in Parliament. Would you think of that suggestion?

Jesse Griffiths: I think it is extremely important that there should be some Committee, whether it is a financial services Committee or some other way of doing it, that gives Parliament that role. That could be operationalised in a number of different ways, but it should be done in a way that makes sure that consideration is given to the way the Bill and, I presume, future legislation delegate a lot of power to the Treasury and the regulators to change, through secondary legislation, regulations that were previously agreed jointly between the European Parliament and the European Council. Some kind of check that that has been done in the correct way, and that it has been done with regard to the fundamental purposes of that legislation, is the role that the Committee would fulfil.

Obviously it would need more resources, which is a key lesson from the European experience. You are right to say that it is not an easy thing to do, nor is it something that can be done in addition to what is already being done by the Treasury Committee, for example. Resources is a key point.

The second key point, of course, is that such a Committee, and potentially the Bill and some of the amendments that have been referenced, can allow the regulators to report and explain more clearly why they are making certain changes, so that is a useful transparency and information point. The third point is that, without such parliamentary oversight, it becomes extremely difficult for civil society organisations such as ours, which are trying to ensure that the voice of the environment and social issues are raised in financial sector regulation, to be heard as effectively as other voices that are trying to influence that regulation. So it helps to create a better balance of lobbying, if you like, or of advocacy in this area.

Mr McFadden: Okay. I will stop there and leave it to others.

Q200 Alison Thewliss: I would like to thank Finance Innovation Lab for the briefing, which was really quite interesting and a different approach. Pat has hoovered up some of the questions that I was going to ask, but is there anything else in particular that you would like to see in the Bill?

Jesse Griffiths: One of the main issues that we would have loved to have seen in the Bill—I recognise that it would be outside the scope to introduce it now—is a proportionate regulatory regime for mutual banks. One thing that is important, or one problem that is very evident in the UK financial sector, is its lack of diversity of institutions. Across Europe, co-operative banks have an average of more than 25% of assets, and in the UK they were not even legal until 2014. The mutual banking movement is now trying to establish that vital part of the system that would help to improve services for customers, improve competitiveness and bring important countercyclical and social and environmental benefits. That would have been nice, given that the Bill recognises that there is a need for a different regime for investment firms from banks, for example. There is a huge unmet need for a more proportionate regime for those institutions. That would be my wish list of what might have been in the Bill. Perhaps as part of the Bill discussions, we might get a commitment to consult on such a proportionate regime.

Of course, the other point to make here—to repeat some of the points we have made about social and environmental purpose and accountability—is that the main issues with the Bill are the things that are missing that could make it much more ambitious and set a much better precedent for financial sector regulation going forward.

Finally, one issue that is worrying to us is the danger of a return to framing the purpose of financial regulation as being about the competitiveness of the UK financial sector globally. That appears in a few places in the Government's explanatory notes to the Bill. The key point is to make a distinction between competition, which is good, and competitiveness, which can be dangerous when applied as a principle for regulation. Framing regulation within that competitiveness framework is widely recognised as one of the main contributors to the global financial crisis. It was easy to make the case for relaxing regulation to make any particular financial sector more competitive compared with others, when actually I think what we want to establish, through the Bill and other actions, is that the UK financial sector will seek to set high standards and to be the leader in that, not to introduce a competitiveness framing that raises the risk of standards being lowered.

Fran Boait: I can build on that. I agree with a lot of what Jesse has said. For us, the overarching areas are accountability and seeing more that it in the Bill, the environmental, social and governance aspects, and the purpose. On that last point, while we understand the Bill is onshoring and tidying up, as I have said before, it sets the direction, and that strategy for the financial services sector has not been laid out by the Government. I think that is key because, as Jesse has mentioned, it is concerning to see competition and competitiveness in there—in the run-up to the crash, that was shorthand for deregulation—at the same time as handing a lot of power to regulators. Again, it is worth noting that the FCA chief executive said himself that they would prefer high standards to the idea of competition, so there is support for that. Making the direction clear is critical.

On a few specifics that have been left out, over the last few years Positive Money has been working on things such as access to cash and the need to protect people's right of payment in different ways—I noted that there were a few questions on that—and thinking about financial inclusion. Thinking more about the financial services' role in the wider UK economy is absolutely critical at this time, and there is not too much in the Bill in terms of the direction of that.

Q201 Alison Thewliss: In terms of saving for people who are at the margins, have you any thoughts about the Help-to-Save scheme and the measures on that?

Fran Boait: I welcome the Help-to-Save scheme, but again, I point to the wider issue—it is the focus of what Positive Money does—of how the financial services sector contributed to the global crash, which has undermined a lot of our economy in terms of people being able to meet living standards, pay bills and so on. Critically, we have to understand that where the money goes from financial services really determines that shape of the UK economy. If most of the money goes into property and financial markets, which it does, and we have four big banks occupying pretty much the whole market in the UK, as Jesse mentioned, we have an economy that has an oversized finance sector and property bubbles, and we have less money going into creating jobs, supporting small and medium-sized businesses and getting into people's wages. We have a crisis of living standards in this country, as well as a household debt crisis. I am not a debt specialist, but I welcome some of the changes put forward for breathing space and debt repayments.

Again, we need not only to look at fixing some of the symptoms, but to think about the cause. I sound a bit like a broken record, but this is why, unless we get a grip on the direction of the financial services sector that we want—whether we want financial services to serve the UK domestic economy and not just international financial markets—I do not see us really stemming the problems with problem debt, limited savings and incredibly low savings across low-income households in the short, medium and long term.

Q202 Alison Thewliss: Lastly, Jesse, I think the phrase you coined, accountability deficit, is quite useful. Can I ask a wee bit more about the risks that moving everything over to the regulators might have?

Jesse Griffiths: Before I turn to the risks, I want to recognise that it is not the case that more regulation is better or that regulators should not have leeway to design proportionate regimes. That is absolutely not the case, and we need to recognise that. However, I think there are risks involved in turning over quite so much authority to regulators as the Bill proposes. As we mentioned, it will allow them to make changes to important regulations with limited parliamentary oversight. Secondary legislation will become one of the main ways in which regulations are changed.

The risks come from different angles. The obvious risk—we have seen this in the past in the run-up to the global financial crisis—is that there is a potential problem of regulatory capture, where the regulators become very close to the people they are regulating, who have regular discussions and meetings with them. The more those decisions take place behind closed doors, the greater that risk becomes.

From our perspective, another big risk is that you miss out on the opportunities to have a broader section of voices contribute to framing regulatory changes, from the kind of organisations that Fran mentioned, which represent the people who are the most badly affected by problems in the financial sector—those with problem debt or who are highly financially vulnerable—to those who think about the environmental impacts of the different regulations. The other risk is that we will not be able to reflect some of the most important impacts that changes in regulation will have.

I will make one final point. It is extremely important for Members to think about how they can actively encourage participation and engagement in those discussions by more of the groups that represent those affected by the financial system. This is in no way a criticism of the Treasury, which I know has a lot on its plate now, but there was an important consultation we noted over the summer that had a one-month consultation window during August, which basically made it impossible for groups that are not directly involved in that particular issue to think about the implications and whether they should contribute. Having requirements to consult in a certain way that allows more groups to participate would be useful.

The Chair: I have seen two other Members indicating. First, I will come to Abena Oppong-Asare.

Q203 Abena Oppong-Asare (Erith and Thamesmead) (Lab): I found your comments really insightful. I have several questions, but first I want to go back to your comment about how the Bill does not mention any environmental priorities. You have come with several recommendations, and you said that you have seen the amendments, particularly amendments 20 and 24, which you support.

I want to clarify something you mentioned, which is that there should be an element of penalising large organisations for not carrying out environmental risk assessments. As we know, there are large organisations and companies such as Barclays that do that. I wanted to hear from you about how those penalties would be carried out. Are they financial ones? The concern that I have is that big companies would be able to afford to pay financial penalties, so is that really a great incentive or way of holding them to account?

Fran Boait: This idea is really in the capital requirements regulation, the idea being that financial institutions and banks lending towards high-carbon sectors would have to hold much more capital against that loan. I agree with the concern that they would maybe go ahead and do it anyway, but I think this is an important mechanism for pricing in climate risk, which has taken off in the past couple of years. There is obviously a recognition from the Financial Policy Committee of the Bank of England that climate risk is a huge risk to financial stability—both transition risk and physical risk—so we need to think about that.

Implementing a penalising factor requiring them to hold higher capital should have an important effect. We have seen a similar thing already done in the housing system, which has not completely solved the problem because it is systemic, but it is an important step forward in regulation and really signals to the market that the regulators do want to keep control of the situation. It is not going to solve everything—it is not going to completely stop lending into the fossil fuel industry—but it is quite an important step forward.

The key here is that there should also be a mechanism for scrutinising the CRR that we are onshoring. At the moment, it seems to say, "We are not going to say what we are going to do. We are going to let the financial regulators decide what it is," which is very dangerous. As Pat McFadden pointed out, it was capital and the lack of banks needing to hold it that resulted in the crash, and it will be the lack of banks needing to hold capital against fossil fuel lending that will keep that carbon bubble, if you like, being pumped up. I am keen to continue the conversation about wider regulation and other things that need to be done alongside that in order to ensure a transition out of fossil fuels, and towards a green economy.

Abena Oppong-Asare: Jesse, do you have any further comments?

Jesse Griffiths: Yes. I think it is another extremely important question, and it is an extremely important way to think about the impact of regulation, as being about what kind of incentives it places on different actors to behave differently.

With regard to climate, there are three key points. One is about disclosure: that is why, for example, we made the recommendation on the PRIIPs point that the key information document should have better disclosure on environmental and social governance issues. That creates an incentive between the sellers of those products and the investors buying them, and we know there is strong demand in the investment industry to know much more about those issues and try to redirect their investment towards greener ends. That is important. Disclosure is obviously also important in terms of civil society and the public understanding what different institutions are doing, and also the Government.

The second point on incentives is the point that Fran has made, which I would fully support. Finding ways to disincentivise or penalise fossil fuel investments in particular is extremely important. The scientific research shows us that if we exploit only those oil and gas reserves that are already being exploited, we will still go above the dangerous 1.5° threshold, without even taking coal into account. There really is not any room for further investment in fossil fuels, so it would be an important signal to think about how we fundamentally disincentivise that by introducing penalties for that within the capital requirements of organisations.

The third point is that this is a newish area for regulators. Although we have been thinking about it for a long time and many regulators have been discussing it, it is not like all the answers are known. We had a report a couple of years ago called "The Regulatory Compass", which explored what it would look like if regulators put a social and environmental purpose at the heart of what they do. There is a lot to do, and a lot of thinking to do there. The first step is, through Bills such as this, giving regulators the responsibility to think about that. I think that is extremely important.

Those are the three main things. The fourth incentive point is that regulation does not solve everything, as Fran said. It is important not to try to solve all problems through this lens, but to think about all the other things that we should be doing—investing in the green future and so on—if we are to solve the climate crisis.

Q204 Abena Oppong-Asare: The Bill mentions a statutory debt repayment plan; I want to get your thoughts on that. Are there elements that you are concerned about? Do you think it goes far enough, and if not, can you make some recommendations? Can I go with Jesse first?

Jesse Griffiths: You can. I do not have anything in particular to say that goes beyond the evidence from StepChange and others on this point. I fully support what they said.

Fran Boait: Similarly, a point that StepChange brought up that it is critical to keep in mind when looking at this kind of regulation is how we look at debtors and the stress and strain that they are under. We need to ensure that their needs are prioritised above those of creditors.

Earlier I made a macroeconomic point about financial services: unless we get our financial services sector better aligned with the needs of the people, small businesses and different parts of the economy in this country, household debt will keep rising. Obviously, we also need good direction from the Government's fiscal spending plan. The direction of financial services and the direction of Government spending are critical in tackling household debt. If we do not look at some of those underlying systemic causes, we will keep kicking the can down the road, in terms of household debt being a problem. Although changes such as breathing space are welcome, they do not tackle the underlying causes and the need to get the number of people in problem debt down.

Q205 Stella Creasy: I want to follow up on a couple of things. First and foremost, Jesse, you were talking about the co-operative banking sector, what we could do, and what would be within the scope of the Bill, given that co-operative and mutual banking would be covered by the Prudential Regulation Authority. Obviously, there are a number of requirements on co-operative banking that we could consider superfluous now that we have this legislation. I am thinking in particular about section 67 of the Co-operative and Community Benefit Societies Act 2014, which has some unnecessary constraints, given the capital structure it requires. Do you agree that it would be helpful in creating a level playing field, and ensuring that co-op banks and mutuals could compete, to recognise that as the Bill provides prudential regulation that covers those banks, those earlier provisions are superfluous?

Jesse Griffiths: Yes, I think that is very sensible. The main point I would make is that those institutions are very different from other types of financial institution, and need a proportionate regulatory regime. The point that you raised is important. They frequently raise the idea of establishing a network of 18 regional banks on the model of the German Sparkasse system. For that to work, they would need to centralise IT and other services so they do not have to replicate those across the different institutions. As they have, embedded in the network idea, an agreement that they will not compete with each other, they can fall foul of competition regulations, so those would need to be considered.

Those are some of many examples that show you need a different regime for these types of institutions. On following a model like the Sparkasse system, in Germany those regional institutions are jointly responsible for each other, so that creates a very powerful incentive for them to be prudent and responsible lenders. If that internal incentive is already there, you should consider which other regulations are not so necessary for those institutions because, by their nature, they are highly prudent lenders.

Q206 Stella Creasy: I take your point that being concerned only with competitiveness is a very narrow view of what is good for the consumer. That piece of regulation does not prevent co-op banks from holding a banking licence, but it could be seen as preventing the competitiveness of co-op banks. If the Government are interested in co-operative banks and supporting their ability to compete, it would be a good thing to remove.

You and Fran talked powerfully about trying to ensure that this Bill has at its heart a positive approach to consumer regulation. Perhaps one of the things missing from it is consideration of its inevitable impact on consumers. Do you have a view about the benefits of reviewing how the Financial Conduct Authority has acted for consumers, and are there are areas where you think it could have gone further and been more proactive? The Bill gives the FCA new regulatory powers. I have an interest in high-cost credit. If we wanted the FCA to take a more proactive view in using these new regulatory powers for consumers, where would you want it to act?

Fran Boait: That is a great question. To build on what Jesse said about mutuals and your wider point about consumer regulation, the issue with our financial services regulation is that all regulation tends to favour the status quo—the incumbents. That is where Parliament's voice is so crucial, as is having more of a civil society voice than we had pre-crash. It might not be obvious how the FCA regulates a mutual bank. Without direction from Parliament that the regulator's purpose is to look at diversifying the UK banking or financial services sector to include different ownership models, the FCA is not really in a position to understand fully or quickly, or move fast on how it can support the emergence of new banks.

On banks and consumers, since the crash, we have seen all these challenger banks coming in, but they are operating very much the same model of a shareholder bank, with short-term profits, and without any kind of wider thought for environmental or social mission-driven aims, or regional considerations. We have not really diversified the sector, and it will be very challenging for us to do so unless the regulators think differently. I think that Jesse and I agree that one of their goals should be to diversify the sector's ownership models, in terms of mission, geographic location and so on. For consumers, and especially someone setting up a new local co-op or small business, that would be a lot better, particularly as we emerge from the pandemic wanting to build back better.

I definitely support a lot of your work on high-cost credit, but although there were some wins on payday loans and in other areas, that issue tended to be transferred to other areas, such as credit cards; some good proposals were put forward on how to regulate those. Obviously, we hope to see the FCA moving fast on trying to ensure that regulation is put forward as quickly as possible where there is a clear issue with extremely high interest rates on high-cost credit.

I repeat that we need to bring this back to the systemic problem of such a large sector of society being on low pay with high living costs. We need to think about the underlying macroeconomic issues, which are very relevant to the direction of financial services. If we are serious about taking things in a more positive direction as we emerge from the pandemic and Brexit, we need more voices for consumer rights in financial services, and for environmental and social considerations. That will be critical if we are to see a more positive direction from financial services, in terms of serving consumer needs.

Q207 Stella Creasy: Jesse, you may wish to answer this. Fran talked powerfully about mission. Our regulatory structure talks about consumer protection. In previous evidence sessions, we have talked about, and indeed the Bill contains provisions for, debt respite, which is very much about protecting consumers when things go wrong. Is there a case for being more proactive about the consumer experience, and perhaps charging our regulators with being more proactive on consumer detriment to try to prevent some of those problems? For example, we could look at what we could learn from capping high-cost credit, and extend that across the whole credit industry—or to sectors where there is no regulation, but we can see that consumer detriment is likely to occur from the model. We could move to a more proactive approach from the regulator, with horizon scanning for what might happen to consumers.

Jesse Griffiths: Absolutely; I agree. On consumers, to bring this back to high-cost credit—this links to the point about the purpose of regulation—regulators should always have at the front of their mind the impact on the most vulnerable people in society, and those who are in many ways excluded by the financial system. This is not just about consumers as a whole, although they are important; it should be about those consumers who will lose most if their needs are not taken into account.

One example that we have been discussing are the new regulations on open banking and open finance, which can lead to further exclusion of marginalised people, who might get their income, withdraw it as cash, and operate in the cash economy, or who often—this has been raised—get income from a lot of different sources, and in such small amounts that it is not recognised as income by the open banking system, as it is set up. Those are just small examples, but if the regulator is not thinking, "What is the impact on these people?", they get missed. Unfortunately, in that example, it feels a bit like that discussion has been, "Well, if it works for 95% of consumers, then it is good." If it does not work for 5%, that is probably the biggest impact that we should care about.

The Chair: I thank both witnesses for their evidence. Our final panellist is poised and ready to go, so thank you, Jesse and Fran.

Examination of Witness

Hon. Albert Isola MP gave evidence.

4.9 pm

The Chair: We have a treat now. Every other word seems to have been "Gibraltar" this afternoon. Our final witness is the hon. Albert Isola, Minister for Digital and Financial Services in Her Majesty's Government of Gibraltar. Minister, thank you for being with us. Will you introduce yourself for the record?

Albert Isola: I am Albert Isola. I am charged with responsibility for financial services in Her Majesty's Government of Gibraltar. I have with me the chief executive of Gibraltar Finance, who has driven much of the work on the matters under discussion today, and Mr Julian Sacarello, who is the head of policy at the Gibraltar Services Commission. You cannot see them, but they are in the room with me.

The Chair: Good value! Thank you. We will start with our Minister, John Glen.

Q208 John Glen: Minister, thank you very much for taking the time to join us as we start our scrutiny. It would be helpful for the Committee if you could set out the nature of the relationship between the UK and Gibraltar on financial services, whether you welcome the measures in this Bill, and what you see as the most significant elements of the legislation.

Albert Isola: I thank you and your team in the Treasury, as well as the regulators at the PRA and the FCA, who have engaged with us over a three-year process of looking at all the areas of market access, all the challenges and opportunities, and how, post Brexit, we can best replicate what we had under the European Union, as that ends and we begin something new. It has been an interesting and almost enjoyable journey. It has been extremely hard work, but the professionalism of your team has been exemplary, and I am extremely grateful to all of them for the conversations that we have had. Sometimes they were difficult, but they were always positive and proactive in looking for solutions, for which I am extremely grateful.

On the relationship between Gibraltar and the United Kingdom on financial services, it is important to remember that when the United Kingdom joined the European Union in 1973, because the United Kingdom was responsible for Gibraltar's external relations, we joined with you. As a consequence of that, for many years, up until 2001, we were striving to enjoy the benefits of that membership. With that came the responsibilities of adhering to the many directives and complying with regulations that were passed from Brussels.

We talk about 28 or 27 member states, but there was another competent authority, the Gibraltar Financial Services Commission, in financial services; it was able to issue a banking licence, an insurance licence or any other financial services licence in exactly the same way as all the other competent authorities within the remainder of the European Union. I ask the Committee to think through the fact that Gibraltar has complied with all European Union directives and legislation in all areas, including financial services. That includes all the anti-money laundering perspectives, which you may wish to discuss later.

For all intents and purposes, Gibraltar and the UK, from a financial services perspective, are aligned. We have the same rules. As we discussed with your teams over the past few years, this is about outcomes—where we get to, and how we get there. We have been through a very long assessment with an independent contractor that was jointly engaged by Her Majesty's Government and the Government of Gibraltar to deep-dive into insurance, which is the largest area of interest between the United Kingdom and Gibraltar, to analyse in enormous detail, and to conduct a sort of gap analysis of whether we were getting to the same outcomes. Where we felt that we were not, we have dealt with that.

Parallel to that process, we also had what you call the legislative reform programme, which was a three-year piece of work, which started before Brexit, to completely redo our financial services legislation. Before, we had 87 pieces of legislation; we now have one Financial Services Bill, which encompasses everything, and is far more aligned to the Financial Services and Markets Act 2000 than we were previously.

This legislation came into play in January this year. Section 20(2) refers to the Gibraltar regulatory regime aligning its standards and supervisory practices with that of the United Kingdom. We had that before, and we again have it in 2020. We are drawing closer together under the new regime that we are discussing; that relationship should continue and prosper, so that consumers in the United Kingdom can have more choice and competition. At the same time, we can know that our aligned standards of law and practice match those of the United Kingdom. I apologise if I have gone on a bit long, but I thought it was important to put today's discussions in context.

John Glen: Thank you very much. It was extremely helpful of you to set the context for the Committee. I have no further questions. I will invite my colleagues to probe a bit further into what you have experienced in the past few years, and how you see the future.

The Chair: We have until 5 pm for this session, so there is a good length of time.

Q209 Mr McFadden: Minister, thank you for giving us your time this afternoon. There is a long-standing and warm relationship between the UK and Gibraltar that informs the measures in the Bill. The Government are trying to create a sort of mini-single market in financial services between the UK and Gibraltar to ensure your continued market access to the UK in future. I am sorry we cannot do much about your market access to the other 27 states to which you currently have market access, but sadly that is beyond the powers of the Committee. Can I ask you, in simple terms, are you happy with the Gibraltar provisions in the Bill as they stand?

Albert Isola: The fundamental question for us is, do we continue to have market access? The answer to that, of course, as you know, is yes. As you have rightly pointed out, we lose single market access to the remainder of the European Union with the United Kingdom on 1 January, and this is where we will look for our future. If I can put it a slightly different way, some 90% of our financial services business before Brexit was with the United Kingdom, so that puts in focus how important this legislation is for all of us here. In each of the different areas in which we have worked, we have developed a niche—an area of specialisation and expertise—that has served those who work here with us well. We very much hope that that will continue into the future.

Q210 Mr McFadden: We have heard quite a lot of references today to the proportion of motor insurance policies in the UK that are sourced out of Gibraltar. I think it is roughly 20%. Looking at the market access regime established by the Bill, is it Gibraltar's ambition to grow the proportion of UK-purchased financial products from Gibraltar—for example, in other areas of insurance, other savings products, or other parts of financial services? Is it a platform on which you want to grow?

Albert Isola: As the Minister with responsibility for financial services, I would love to see our businesses grow—of course I would—but responsibly and in a manner that matches the standards that we have with the United Kingdom in terms of the regulatory approach. The reason that we have been successful in motor insurance is because we have developed expertise and specialisations in the firms that have come here. It is not that we switched on one morning and had 20% of the United Kingdom motor market; that has grown over a 15-year period. As they have grown, so have we, in terms of the business we do with the UK. There are a number of other businesses that have tried in other areas of insurance, and they do well, but with nothing like the success that the motor insurers have enjoyed in working with the UK.

Q211 Mr McFadden: My final question is one that I touched on with the Association of British Insurers in its evidence earlier this afternoon. Given the platform that is being created by the Bill, do you see any potential for attracting businesses currently in the UK to relocate to Gibraltar? Would there be any corporation tax advantage for them in doing so, for example?

Albert Isola: My experience, put quite simply, is that of all the firms that have come and set up here in the last seven years while I have been in this job, not one of them has ever said they are coming for tax purposes. There is a tax differential—I think the rate of the UK's corporate tax, or profit tax, is 19%; in Gibraltar, it is 10%—but that has never been cited as one of the reasons for setting up in Gibraltar.

It is far more about our agility as a jurisdiction and the accessibility of the regulator. I can arrange to meet every single insurance company in Gibraltar in two weeks if there is something that I would like them to do or be more conscious of. That is just not possible in the United Kingdom. The accessibility of our regulator for all our insurance firms is the No. 1 point that they measure as to why Gibraltar has been so good to them. They have that access and they have that contact. Then you have the expertise we have developed: the lawyers, the accountants, the insurance managers, who are able to provide the services that they need. These are far more important to the firms than the corporate tax. I have to say, if I may—allow me this plug—the quality of life is obviously important too. The sun shines here for a little longer than it does in the City of London, and I think that is important too.

Mr McFadden: I am sure it is; your weather is certainly better. I have no further questions. Thank you very much, Minister.

Q212 Alison Thewliss: I just have a couple of questions. You mentioned that insurance is the largest area; are there any other aspects of financial services that require any further legislative action, or are you content with the way in which the legislation is set out?

Albert Isola: Forgive me, I did not hear the question particularly well. Would you mind repeating it?

Alison Thewliss: Apologies; you are quite far away, I suppose. You mentioned that insurance is the largest area in which you have dealings. Are there any other aspects of financial services that are not covered in this Bill that require any further legislative action, or does the Bill cover everything that you require it to?

Albert Isola: This legislation is like the enabling legislation, if I can call it that. If I can just say what it does for us, this requires alignment of normal practice, and it also requires, as a secondary condition—if I can call it that—co-operation between regulators and between Governments. In terms of the aspect that you are referring to, what will actually happen post 1 January 2020, I expect, when we begin the serious work, is that we and the Treasury will work through each of the different activities that we wish to have to access to, to the United Kingdom. The Treasury will then satisfy themselves, or not, that we meet the standards required to be able to have those passed through a statutory instruments in 2022, as one of the subsets of the activities that we can do. Insurance will be one; banking will be another; funds will be another. All of these are different subsets of controlled activities regulated in the United Kingdom, which we will work on with the Treasury in the coming 12 months to satisfy it of our ability to meet and match the standards that we have discussed here today.

Q213 Alison Thewliss: Thank you. Presuming that all these standards are met at the current time, do you have any worries about meeting those standards or any implications that not meeting those standards would have?

Albert Isola: No, not at all, but again, simply because today we can passport our services under the European Union or Gibraltar order, mirroring the European Union provisions. We both have the same rules today: that is obviously true in insurance, in banking, and in the funds sector. We all have the same rules and regulations today, so I have every confidence that we will meet the standards that the Treasury will ask us to meet in the next 12 months in each of those different areas, because we are at one already today.

Q214 Alison Thewliss: Do you think that the rules give adequate protection for UK as they are set out in the legislation?

Albert Isola: Yes, because we need to be aligned in terms of authorisations, supervision, capital finance and enforcement, so the whole array of measures that a UK consumer can expect to receive in the United Kingdom, they can fully expect to receive from us also.

Q215 Alison Thewliss: You do not foresee any diminution of that protection that UK consumers have?

Albert Isola: No, no, absolutely not. On the contrary, as the UK moves in whichever direction it moves post 1 January 2021, whether there is divergence or not, we will obviously, in respect of the areas that we seek market access, follow those through.

Alison Thewliss: Thank you very much.

The Chair: Stephen Flynn, could you make your way to the mic and speak right into it? That one will work, although it has Duncan Hames's name by it.

Q216 Stephen Flynn (Aberdeen South) (SNP): I am sure that Duncan would be overjoyed to be associated with me.

Thank you, Minister Isola, for presenting yourself before us today and for the information that you have provided. I would like to follow on from the shadow Minister's questions about the competitive advantage that Gibraltar may or may not have. As I see it, the Bill seeks to create a level playing field, but it could be inferred that Gibraltar has a competitive advantage over our constituent parts of the United Kingdom—indeed, the home nations—given that it has abilities in relation to corporation tax and other forms of taxation that the home nations do not. How would you assess that? I appreciate that you sought to answer Mr McFadden in that regard, but do you feel that we could see a situation in which businesses will seek to take advantage of what is clearly a level playing field with a competitive advantage for yourselves?

Albert Isola: The simple answer is no, and I will tell you why. If you think about it, we have been setting our own tax rates for the past 20 years, during which we have had access to the United Kingdom market through the European Union single passporting system. I do not think that I have ever heard any discussion in the financial services environment about different tax rates in different member states of the European Union, let alone Gibraltar, having an impact. It is not as if an advantage were being created by the Bill that would endure to 1 January next year and beyond. Where we are today is where we have been for the past 10 or 15 years with different tax systems.

I do not think that you will find a company that—with the level of investment that it requires in terms of capitalisation, particularly with respect to insurance—will make a judgment call on a difference of 9% in corporate tax, assuming that it can make a profit. As I said to the shadow Minister, the information that I have from the firms that have come here is that that is very low on their list of priorities, if it is there at all. I do not see it having the impact that you suggest; if there were such an impact, it would already have happened a long time ago. As I mentioned, the firms that are in Gibraltar today have been here for a very long time, and as they have grown, so have we. Our market share has been 20% for the past year or two; it was a lot less before those businesses grew and became more successful.

The Chair: As there are no further questions, I thank you, Minister, for joining us remotely from Gibraltar as our final witness of the day. This is the end of our fourth and last evidence session.

The Committee will meet again, not here but in Committee Room 14, on Tuesday at 9.25 am—bright-eyed and bushy-tailed for our first sitting of line-by-line scrutiny.

Ordered, That further consideration be now adjourned. —*(David Rutley.)*

4.28 pm

Adjourned till Tuesday 24 November at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

FSB 02 Building Societies Association (BSA)
FSB 03 Finance Innovation Lab
FSB 04 Revolut
FSB 05 Association of British Insurers (ABI)
FSB 06 Spotlight on Corruption