



House of Commons  
Treasury Committee

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# Fixing LIBOR: some preliminary findings

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*Oral and written evidence*

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## The Treasury Committee

The Treasury Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of HM Treasury, HM Revenue and Customs and associated public bodies.

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Mark Garnier MP (*Conservative, Wyre Forest*)  
Stewart Hosie MP (*Scottish National Party, Dundee East*)  
Andrea Leadsom MP (*Conservative, South Northamptonshire*)  
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# Oral evidence

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## Taken before the Treasury Committee on Wednesday 4 July 2012

Members present:

Mr Andrew Tyrie (Chair)

Michael Fallon  
Mark Garnier  
Stewart Hosie  
Andrea Leadsom  
Mr Andrew Love  
John Mann

Mr Pat McFadden  
Mr George Mudie  
Jesse Norman  
Teresa Pearce  
Mr David Ruffley  
John Thurso

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### Examination of Witness

*Witness:* **Bob Diamond**, former Chief Executive, Barclays, gave evidence.

**Q1 Chair:** Thank you very much for coming in today, Mr Diamond. This hearing is subject to parliamentary privilege and we will hope and expect that you will as a result be able to speak freely and, of course, even more freely now you have resigned. The hearing is about turmoil at one of Britain's leading financial institutions and certainly I accept that Barclays has suffered bad publicity partly because you settled first. None the less, these issues go much wider than that LIBOR settlement, even though that did appear to have precipitated your resignation.

I think before we go any further, given that you have resigned, I would like to give you an opportunity to explain your reasons.

**Bob Diamond:** Thank you Chairman, and thank you everyone for being here.

Wow. I love Barclays. That's where it starts. I love Barclays because of the people. It is 16 years ago today, on 4 July 1996, that I began at Barclays, and it has been 16 years of tremendous enjoyment; and that enjoyment has been driven by the incredible 140,000 people in over 50 countries around the world.

Chairman, as you said, this week the focus has been on Barclays, in many ways because they were first. I worry that the world looks at Barclays and a small group of traders, or a group of traders, who had reprehensible behaviour, and that that is being put on Barclays in a way that is not representative of the firm that I love so much and the way they treat their customers and clients, and the way they deal with problems.

That comes to the core of the issue: clearly there were mistakes. Clearly there was behaviour that was reprehensible; but as soon as this was recognised Barclays put all forces—if there's a mistake, if there's a problem, how do we handle it? What do we do about it? At Barclays it has been three years with three of the most important regulatory agencies in the world looking at millions of files; and all three regulatory agencies applauding Barclays for its co-operation, analysis and proactivity. We hired two external firms to work with two members of senior management, reporting to the chairman of the board and the chairman of the audit committee. The attitude of Barclays three years ago when this was recognised

was, "Let's get to the bottom of it. Let's identify the problem; take the actions necessary; learn our lessons and, if any of our customers and clients got hurt, let's make them good." That attitude is recognised by the three regulatory agencies in what they wrote, but it is not coming out in the court of public opinion over the past week.

Fundamentally, my decision to resign was that my leadership and questions about my leadership have been a part of that. The best way I think I can help bridge Barclays from the turmoil of being the only one out, so that this is looked at in the true context of being about an industry and about LIBOR in addition to Barclays, and prevent the damage to the reputation that has happened over the past week, the best way for me to do that was to step down but to continue to come here and answer the questions of the Committee. I love Barclays. History will judge Barclays as an incredible institution because of its people. We need to get through this period and the best way to do that was for me to step down.

**Q2 Chair:** Why did you change your mind over the weekend? What was the trigger? There have been reports that there was pressure from the regulators. Is that correct?

**Bob Diamond:** Let me explain why I changed my mind. That is a good question. It was not over the weekend because we worked over the weekend on a communication to our colleagues internally. We did that knowing we had the support of the board and the support of our shareholders, with whom we had been working from the announcement toward the end of the week, of our colleagues, clients, customers and regulators. It was clear to me on Monday that that support wasn't as strong, and that I needed to take this step in this bridge. The support from the regulators was not as strong as it had been and I needed to take this step.

**Q3 Chair:** I just want to pin that down. Did one or more of the senior regulators ring Marcus Agius?

**Bob Diamond:** I don't know.

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**Q4 Chair:** When Marcus Agius spoke to you or you spoke to him, did he refer to any pressure of any type that had come?

**Bob Diamond:** That is probably a question for Marcus, who I know is here next week.

**Q5 Chair:** I am asking you to tell me what he would have told you in that conversation. You would have had a conversation with your chairman about this, and about the sustainability of your continued role as chief executive.

**Bob Diamond:** I would say broadly speaking it was just as I said. With the focus of intensity on my leadership, it was better for me to step down.

**Q6 Chair:** Why are you so reluctant to tell us what may have transpired with those regulators over the weekend? We are going to have them before us.

**Bob Diamond:** I am trying to think if I had any conversations with regulators over the weekend.

**Q7 Chair:** You didn't but Marcus Agius did, didn't he?

**Bob Diamond:** Chairman, I think it is as simple as this. If Marcus had conversations with regulators, that is a conversation for him to have with you. I did not discuss that with him; I just discussed my reasons.

**Q8 Chair:** It is widely held that regulators have lost confidence—and it's not just LIBOR—in your leadership of Barclays. Why do you think that is?

**Bob Diamond:** I think there has been an unfortunate series of events in the past week around Barclays being identified as the first bank in a report that clearly showed very, very bad behaviour by groups of people. How we dealt with that was, I think, appropriate and that was a sign of the culture at Barclays, but that is not coming out.

**Q9 Chair:** The answer you are giving is that it is the "the first mover disadvantage".

**Bob Diamond:** Yes.

**Q10 Chair:** But it is true, isn't it—at least I have been told—that the FSA were concerned about your appointment as chief executive? They sought assurances from the board at the time of your appointment that there would be a change of culture at Barclays. Is that not correct?

**Bob Diamond:** That's the first I've ever heard that there was any question about my appointment as chief executive. I certainly went through, as a chief executive appointment would, interviews with the Financial Services Authority, and I got very strong support for my appointment to chief executive.

**Q11 Chair:** And you know nothing of any written submission by the FSA to the board at that time, setting out the need for an improvement in the corporate governance of Barclays, an improvement in the culture, a need to look better at how you were assessing the risk appetite, and to improve the control framework? You know nothing about this whatsoever?

**Bob Diamond:** I knew nothing about it at the time that I was appointed. Correct. I don't know anything about it.

**Q12 Chair:** We're talking about September 2010 here.

**Bob Diamond:** Correct.

**Q13 Chair:** And you know nothing at all about the suggestion that you were asked to provide assurances that you would challenge your long-term colleagues at BarCap not to take excessive risks?

**Bob Diamond:** I don't remember any specific comments, but I am sure there were discussions with the regulators during the process of my succession. My memory is more around whether, having been associated with the investment bank for a number of years, I would be able to disassociate myself so, as a group chief executive, I would be able to leave the running of the investment bank to—at the time—Rich and Jerry.

**Q14 Chair:** Is it true that, in February this year, the FSA came to the board and expressed their concerns?

**Bob Diamond:** I think it's every year, Chairman, in that February meeting that the FSA comes, so—

**Q15 Chair:** What was said?

**Bob Diamond:** The context of the discussion when it got to controls, which I think is what you are asking about—I should call it the control environment—was that the focus and the tone at the top was something that they were specifically happy with. In particular, they talked to the board about Chris and I and our relations with the regulators, how we dealt with any situation that came up. I am thinking of PPI—

**Q16 Chair:** Isn't it a bit more specific than that, Mr Diamond? Didn't they tell you that trust had broken down between the FSA and Barclays?

**Bob Diamond:** I don't recall that in the February meeting.

**Q17 Chair:** Didn't they tell you that they no longer have confidence in your senior executive management team?

**Bob Diamond:** No, sir.

**Q18 Chair:** And wasn't all this followed up with a letter?

**Bob Diamond:** There was a discussion that, as it got down into the organisation, they felt that there were some cultural issues—that people sometimes push back; that some of the push-back wasn't always filtered up to the top—so there was an overall discussion on culture. We took some of this as, "This is the annual review from the FSA", and—

**Q19 Chair:** This is the sort of thing they say every year?

**Bob Diamond:** No, I didn't mean it that way at all, sir—apologies—but it was part of an annual review, so it is always going to have some things that they are going to be critical of and that we can do better. But they were specifically pleased, and said so to the

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board, with the tone at the top, referring in particular to Chris Lucas and myself and our colleagues on the executive committee.

**Q20 Chair:** Isn't it true that there were challenges from them about your stress tests, your accounting practices, the handling of the Protium deal? Of course, we have subsequently had the debt buy-back scheme, the interest rates swaps problems and of course now LIBOR. Isn't this all part of a pattern?

**Bob Diamond:** I don't remember anything—I didn't brief before this on the February meeting, so I don't mean to skip over anything, if I am. There was a conversation, I think. There had been a series of things, such as Protium, which became quite an issue between the FSA and ourselves. Without going into the versions of that transaction, because it was a transaction that was approved by the FSA, I think, to be fair—I wasn't the chief executive at the time, so I'm probably speculating a little bit—it was a transaction that created more debate between the FSA and Barclays than probably anyone anticipated when the transaction was done. I remember Protium coming up during that meeting in the context of, "Let's not have these types of situations."

**Q21 Chair:** This will all come out in the wash—what happened in September 2010 and, indeed, what happened in February this year. Can I turn to the decision during the crisis to lower the LIBOR returns? In your letter to me last week, you said, I quote, "the decision to lower LIBOR submissions was wrong". When was that decision taken?

**Bob Diamond:** Context—I have discussed with you that there will be times for context. I think our letter to you laid out pretty well that there are three different periods that it is easiest for me to refer to. There was the period between 2005 and 2007, with some activity that carried up into 2008 and very early in 2009, but primarily 2005 to 2007, which was about a group of traders and the influence they were putting on the rate setters. That is one period.

There was a second period, which I think you are referring to, which was during the credit crisis of 2007 to 2008, when there was pressure put on the rate setters coming from the Barclays group.

**Chair:** Okay.

**Bob Diamond:** If I can just finish with the third, I can call one, two and three going forward. The third was really the period toward the end of 2008—October 2008—when there have been questions about the Bank of England discussion with a senior person and pressure on the rates. So those are the three periods, and I think you are dealing with the middle one?

**Q22 Chair:** So this decision was taken in, from what we can tell from the FSA documentation, September 2007.

**Bob Diamond:** The decision to influence rates?

**Q23 Chair:** Yes—to lower LIBOR submissions.

**Bob Diamond:** I am pretty sure that was the—I cannot remember if it was exactly September.

**Q24 Chair:** I am surprised that you are unsure. It is pretty reasonably clear.

**Bob Diamond:** I thought you were asking about the first instance. It was in September, yes.

**Q25 Chair:** This is all set out in paragraphs 111 to 114 of the FSA's final notice report. I want to clarify that the decision that you refer to in your letter is indeed the decision, and the set of actions taken, in paragraphs 111 to 114.

**Bob Diamond:** I apologise, Chairman. I am confused. I think there was a different set of decisions from traders and some of those happened before September 2007.

**Q26 Chair:** I am talking about the second period. We are talking about the period in the crisis when the decision was taken to lower LIBOR—specifically to lower it. I began by saying I was talking about that latter period, not the first period. This does make clear, does it not, that the decision to lower LIBOR was not taken as a result of the Tucker conversation, which did not take place until over a year later?

**Bob Diamond:** Excuse me, that is correct.

**Q27 Chair:** Let's turn to the Tucker file note. Do you usually take a file note?

**Bob Diamond:** Occasionally, I would say. Not frequently.

**Q28 Chair:** How many have you taken of your contacts with regulators over this relevant period? You have listed the relevant contacts with regulators in your submission to us.

**Bob Diamond:** Most of those contacts were not me, and it is today—

**Q29 Chair:** How many of them were you?

**Bob Diamond:** I think on that schedule the only one that referred to me was the conversation with Paul.

**Q30 Chair:** You had no other contact with regulators apart from that one?

**Bob Diamond:** Sorry, I think what we are listing there was the specific—

**Q31 Chair:** I am at page 7 of the supplementary evidence that you produced for us yesterday.

**Bob Diamond:** This is the submission that Barclays sent in yesterday.

**Q32 Chair:** I would like to know how many of these contacts are you.

**Bob Diamond:** I had fairly frequent contact with the regulator during this period, but my contact would generally be with the Bank of England or with people below the Hector level, because at this time John was the chief executive.

**Q33 Chair:** Of this fairly frequent contact, how many of those were file-noted—roughly?

**Bob Diamond:** Maybe a few.

**Q34 Chair:** A handful?

**Bob Diamond:** Yes.

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**Q35 Chair:** So the fact that you took a file note is very significant indeed, isn't it?

**Bob Diamond:** Today I do it regularly, because as chief executive I have regular, more official meetings, but in terms of a phone call, that would be correct.

**Q36 Chair:** What did you take Mr Tucker's use of the phrase "Whitehall" to mean? You wrote it down and put it in your file note.

**Bob Diamond:** Yes, I did. I think that was the core of the reason that I dictated that note and communicated with John right away. As you saw, the file note was to John. The concern we had, if I can put it in context, was that this was 29 October 2008. I don't have to remind the Committee what October of 2008 was like. We had had the Government intervention in the Royal Bank of Scotland; we had the Government intervention in Lloyds—

**Q37 Chair:** I am actually asking you a question about what you took to mean—

**Bob Diamond:** I should have been more direct, I apologise.

**Chair:**—what you took to mean by the phrase "Whitehall", when you wrote that down.

**Bob Diamond:** On 31 October, two days later, the fundraising from the Middle East was completed, so within the context of this market there was a worry that if people in Whitehall, which in my mind are officials in the Government—

**Q38 Chair:** That is all I was asking. We have now arrived at the answer. You think it was officials. Okay. The note from Mr Tucker says that he felt your LIBOR returns could be lower, doesn't it?

**Bob Diamond:** He felt that our LIBOR rates relative to the other 15 posters—

**Q39 Chair:** Could be relative lower. Yes?

**Bob Diamond:** Yes.

**Q40 Chair:** Why then, on page 2 of the note to this Committee yesterday, did you say that you don't believe you received an instruction?

**Bob Diamond:** I did not believe it was an instruction.

**Q41 Chair:** So what was it? A nod and a wink?

**Bob Diamond:** The most important thing of that note to me, Chairman, was the comment that there was a perception in Whitehall that our rates were high. The worry that I shared with John was that if members of the Government were told our rates were high relative to others, and if they then took that to mean that we could not fund or were having trouble funding—and I have to be very patient here—when in fact we were funding adequately in one of the worst market environments, well, the worst market environment I had ever been a part of in 30 years in banking, and it was clear that a number of the firms who were posting had emergency loans, or had been nationalised, or were having trouble funding, and yet we were posting the highest level, then, as I said to Paul, we are funding at those levels but we would question whether some of the other institutions can actually get funds at the levels they are posting—

**Q42 Chair:** My question is about what you took that to mean.

**Bob Diamond:** The implication of that for Whitehall—

**Q43 Chair:** If I read it out to you, your LIBOR returns "did not always need", i.e. do not always need, "to be as high as we have recently." It is pretty clear.

**Bob Diamond:** I think what Paul was worrying about—

**Q44 Chair:** It is pretty clear. In other words, your LIBOR returns could be lower.

**Bob Diamond:** If you look at one more page in there just so that I can make your point even more, because I think it is the right point. If you look at page 22, which is the LIBOR submissions of 16 banks that submit three-month dollar LIBOR, which was the question at the time and if you look at the top of that page and that line that goes across, that is the Barclays submission. Here is the important point. In October 2008, when Barclays was funding adequately, probably as well as any international bank and as well or probably close to as well as any bank that submitted, and there are banks here that were posting levels lower than this, even those that were nationalised, in 100% of the days in October 2008—100% of the days—we were the highest posting LIBOR or the next to highest.

**Q45 Chair:** You—

**Bob Diamond:** It is really important, Chairman, if you can bear with me. To hear some of the comments that have been made that Barclays was lowering their submissions for their reputation or things like that—Barclays during that month was reporting levels at which they were borrowing, and yet 14 or 15 firms, 100% of the days, were reporting at levels lower than that, and some of those banks could not fund at any level.

**Q46 Chair:** We know that others were up to this game, Mr Diamond.

**Bob Diamond:** No, no. That isn't the point.

**Q47 Chair:** If you could get to the point.

**Bob Diamond:** If Whitehall was told, "Barclays is at the highest of LIBOR", without knowing all that I just went through, they might say to themselves, "My goodness, they can't fund. We need to nationalise them," as they had nationalised other British banks. This was a very important period.

**Q48 Chair:** Which you were desperately trying to avoid.

**Bob Diamond:** We weren't desperate; we had £6.7 billion in equity being raised. Or, if rumours got on the market that we could not fund, maybe we could not complete the equity raising—the single most important financing that Barclays has had, I think, in—

**Q49 Chair:** I just want to be clear. You don't think you received an instruction; you don't think that it was even a nod and wink, even though it reads that

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way to almost everyone who looks at it; but you were monitoring LIBOR daily and your returns by then, weren't you, Mr Diamond?

**Bob Diamond:** Was I monitoring LIBOR?

**Chair:** You were monitoring LIBOR and keeping a very close eye on it. It was a key indicator of the health of your bank.

**Bob Diamond:** I was aware of it, but I would not say I was the key person monitoring it, no.

**Q50 Chair:** You weren't the key person, but you were being told what it was.

**Bob Diamond:** I was on a daily report, yes.

**Q51 Chair:** You were getting a daily report, and you would have noticed that it fell the day after you sent that e-mail.

**Bob Diamond:** That is a very good question. I do not want to get you upset, but this will take a second. This is really important, because there was a report in the press today about how on the day of that note—the next day or two days later—LIBOR rates went down. If you look on the very next page, at November, you will see that through all of November as well, Barclays was either the 14th, 15th or 16th—we were either the highest, second highest, or third highest. But this is a relative rating: where did we post versus the other 15 banks? What you are referring to is that, following our fundraising, which was very positive news to the market, levels of LIBOR went down across the market. It had nothing to do with Barclays submissions. Barclays submissions were still at the high end, meaning that we were still reporting at those levels.

**Chair:** I got the point, but we already knew that point.

**Bob Diamond:** So, it's the difference between the relative rating—when someone says, "Your LIBOR is high," they mean that relative to the other posting banks, as opposed to, "LIBOR is high," which means the absolute level of rates. We had two different events here. We had Barclays at the high level relative to the other firms and then we had a reduction in LIBOR based on good news in the market and part of that was the fundraising of Barclays.

**Q52 Jesse Norman:** Mr Diamond, you have talked about setting up BarCap in 1998. I think I am right in saying that you came to it having been the global head of fixed income at Credit Suisse First Boston, and before that at Morgan Stanley. So how long had you been in the debt markets before you arrived at Barclays?

**Bob Diamond:** I think my first position at Morgan Stanley in the money markets, which I think you would consider the same, was 1981 or 1982.

**Jesse Norman:** So that is 27 years—no, sorry, 17 years.

**Bob Diamond:** You were in Barclays too, I understand.

**Jesse Norman:** I left sadly before you set up BarCap.

**Bob Diamond:** We shared some time at BZW though.

**Q53 Jesse Norman:** Tell me about your experience of bond markets. You had been in the derivatives markets?

**Bob Diamond:** No derivative person would ever consider me a derivative person, I can assure you. I am a little old for that. I was really in money markets. When I was actively involved, before I was in management, I was in the cash markets or the money markets.

**Q54 Jesse Norman:** And also markets that were funded off those—off the cash markets or indirectly—such as bond markets?

**Bob Diamond:** Yes.

**Q55 Jesse Norman:** Okay. Fixed and floating rates, LIBOR and other?

**Bob Diamond:** Mostly US Treasury or European Governments or Japanese Government. It was more on the Governments and supernational side.

**Q56 Jesse Norman:** So in other words, when you arrived at the opportunity to set up BarCap, you had been living and breathing the debt capital markets in different forms for 17 years.

**Bob Diamond:** It was more the Government markets, but fixed income, yes.

**Q57 Jesse Norman:** And the opportunity for you was to use the Barclays balance sheet and the Treasury function to set up a bank that used your ideas and your experience, as you wanted it to be?

**Bob Diamond:** Well, I would have said it slightly differently, but there was an opportunity at Barclays, because Barclays at that time, as you know, Jesse, was more UK-focused as opposed to internationally-focused.

**Q58 Jesse Norman:** I think I remember you saying to the Committee that it was sub-scale; it employed slightly less than high-quality people and did not pay them very much, so the opportunity to change all those things must have been exciting and interesting.

**Bob Diamond:** Part of the sub-scale is that they had scale in the UK, but it was impacting their ability to expand internationally, which they were trying to do.

**Q59 Jesse Norman:** When you set up BarCap, you were responsible directly, therefore, for recruiting senior staff and for deciding which products you focused on and markets you played in around the world. Those would all have fallen under the experience that—

**Bob Diamond:** Certainly, we would have gone to the board if we entered any new products or any new regions, but I would have been part of driving that strategy and presenting it.

**Q60 Jesse Norman:** Did you run it on a very hands-off basis, as it were, decentralised, or did you give people a free rein and let them do what they liked? How did you run it?

**Bob Diamond:** I think my management style at the time, if that is what you are asking, was to have an executive committee that had all the representatives of the things that reported up into me. I certainly preferred a consensus style of management, that we could agree on the right decision, as opposed to the



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chief executive making all those decisions, if that's what you're asking—sorry, you asked about centralised. I think people would have considered it more centralised rather than less centralised.

**Q61 Jesse Norman:** That makes sense. I just wanted to establish that you had a high level of familiarity with the bank, because you were starting with a relatively blank sheet of paper from Barclays, recruiting these teams and setting up products and markets according to a financial and economic model that you believed in.

**Bob Diamond:** In some ways, it's interesting. In the gilt market, for example, even today, some of our people have been here 25, 30 or 35 years, in the money markets. Because Barclays had such a rich and strong tradition in the sterling-based market, many of those people have been with the bank for quite a while. Conversely, as we began operating in areas where we did not have very much of an operation, it would typically be people hired from the outside.

**Q62 Jesse Norman:** So there would have been lots of people all the way down the bank dealing with the Bank of England, because of the experience and provenance of the bank.

**Bob Diamond:** Yes.

**Q63 Jesse Norman:** So senior management, but also treasury people and people within different parts of the bank. What are the other kinds of parts of the bank that would be dealing with the Bank of England?

**Bob Diamond:** Certainly we would have started with the group treasury. My recollection—you may remember this—was that Patrick Perry was the group treasurer, reporting to Oliver Stocken. All the group funding issues, which sometimes were executed—I think in the BZW days as well—through the markets groups, but the governance and the decisions were made by the group treasury. Euan Harkness, whom I know you remember, and who has been with the firm until recently, had probably the closest relationship with the Bank of England in our gilt-edged operation.

**Jesse Norman:** I don't think I've met him or heard of him, but tell me about your relationship with the Bank of England. Do you think the Bank was slow to respond to the crisis in 2007–08? Is that what is lying behind some of these concerns?

**Bob Diamond:** No I don't. If we look relative to other banks in the world, I think one of the best decisions we made as an institution in Barclays, if I look over the period of the financial crisis and said to myself, "Bob, what is the single best decision that Barclays got right?" was when it was clear in October 2008—the period we are talking about—that the FSA had made a decision to ask all banks to carry more equity and soon after it had nationalised—I may be overusing the word, because it might have been an equity stake—Lloyd's. The HBOS merger with Lloyd's had been arranged and, we know today, a £62 billion loan had been arranged for HBOS, after the announcement of the deal but before the completion of the deal with Lloyd's. With all those things going on in the market, we raised capital privately.

**Q64 Jesse Norman:** I think we are talking at cross-purposes. I am talking about the Bank of England. Was the Bank of England slow to respond to the crisis in 2007–08?

**Bob Diamond:** It was many, many different levels of response. Being a market practitioner, we always wanted as much response we could get from the big central banks in terms of money market conditions. I do not recall a specific example.

**Q65 Jesse Norman:** But living and breathing in the debt markets, you would have seen the Bank of England's operations either existing or not existing, supporting or not supporting the bank.

**Bob Diamond:** I think the Fed took the lead; I would say it that way. I understand where you are going. Were people in the markets or was I critical? I would not have called it critical, but we were working with and encouraging more activity from the Bank of England in terms of the money markets.

**Q66 Jesse Norman:** The point I want to get to is whether the Bank of England's slowness to respond put further or unnecessary strain on the Barclay's balance sheet, as it did with other banks. If so, might that have made the crash worse and created some of the adverse behaviour that we have seen?

**Bob Diamond:** When we look back at that period, Jesse, I think it would be fair for me to say that Barclays, for a host of reasons—tradition, the quality of the brand name, the fact that we had a balance of funding coming from around the world, so we had central bank deposits from the Central Bank of Japan, from China—had access to funding that was different than many banks, a credit rating that was strong, a balance sheet that was strong—

**Q67 Jesse Norman:** Okay, that isn't answering my question at all. I asked whether or not the Bank of England has been adequately supporting—

**Bob Diamond:** No, I don't think that was an issue for us. I think the day-to-day funding of the bank—I think that's what you're asking for—our access to money markets, our access to funds—I would have categorised it relative to the other banks, not just headquartered in the UK, but the other global banks—was right at the very top in terms of our access to liquidity and our access to funding.

**Q68 Jesse Norman:** So you didn't have to make any asset sales. You were happy with the Bank of England and you were—

**Bob Diamond:** We had to make sales of securities that we felt were—but it was more based, not on could we get them funded, but on the fact that they are going to deteriorate in value.

**Q69 Jesse Norman:** And you're watching the markets.

**Bob Diamond:** We felt comfortable. I don't want to overstate it, because the markets were in turmoil, but relative to the other banks and relative to our need to fund, I think the Bank of England and the Fed would also say Barclays was in a very good position in funding.

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**Q70 Jesse Norman:** So your point is, you're watching the Barclays balance sheet like a hawk. You need to fund. You're making sure that these rates are properly doing their job, with the screens on the table, seeing what is the right moment to come into the market—that kind of thing.

**Bob Diamond:** No, I was not day to day on the desk at all, or timing when we came into the market, at all. No.

**Q71 Jesse Norman:** But you'd be following; looking on.

**Bob Diamond:** Let me say it another way. I would have had a report if we had a funding problem.

**Q72 Jesse Norman:** Sure. Thank you.

**Q73 Michael Fallon:** Can I remind the Committee of my registered interest as non-executive director of Tullet Prebon, which is one of the brokers that was asked by the FSA to help with the investigation—to provide information to help with the investigation into the banks?

Can we, Mr Diamond, go back to the file note of your call? You said in answer to the Chairman that you thought the senior figures referred to were—you said at one point—officials in the Government, and then later on you said members of the Government. Which do you believe? Who do you think they were?

**Bob Diamond:** I would only be speculating if I told you who I thought they were, and I don't think it's appropriate to speculate. My recollection is Paul didn't mention who he was referring to or I would have put it in the note.

**Q74 Michael Fallon:** Right. But who do you think he could possibly have been referring to?

**Bob Diamond:** I don't want to speculate.

**Q75 Michael Fallon:** A Department or—

**Bob Diamond:** Senior people in the Government.

**Q76 Michael Fallon:** Right. Are you aware that Shriti Vadera today told the BBC, "Of course, LIBOR was a concern"?

**Bob Diamond:** Someone told me this morning that there was something in the paper about Shriti and LIBOR and I have not had a chance to look at it. So that would be—it's relatively new to me, but I heard a reference this morning.

**Q77 Michael Fallon:** Prior to this phone call with Paul Tucker, did you have any other discussions with Ministers or officials, or the Bank of England, about the LIBOR?

**Bob Diamond:** Shriti was very involved in the recapitalisation of the banks in the UK, but keep in mind, in October 2008 I had just moved to New York, following the decision that the board made to acquire the US business of Lehman Brothers, having been in London with Barclays since having joined. I moved back to New York in that September. Secondly, John was the CEO, so we would tend to—John and I worked very well in terms of who had primary responsibility and secondary responsibility, and he

was doing most of the communication with Shriti. But I would say that, oftentimes, Shriti would ask to see me as well. I think it was more often John. I think Paul Myners and Shriti would have been people that John had on his list, not Marcus, and I would see them far less than John, but I would see them from time to time, and the time to time was a bit less, having been relocated to New York.

**Q78 Michael Fallon:** Okay, but I just want to be clear. So there were discussions with Shriti Vadera.

**Bob Diamond:** Yes.

**Q79 Michael Fallon:** In the period immediately prior to 29 October.

**Bob Diamond:** I'm not sure if there were discussions immediately prior. I would think there might have been, but—I'm not saying there weren't, I just don't have any recollection.

**Q80 Michael Fallon:** You don't remember meeting her. You think it would have been John Varley who met her.

**Bob Diamond:** Michael, I'm not trying to be evasive. It may have been me.

**Q81 Michael Fallon:** You said you thought she was involved. You told us she was involved.

**Bob Diamond:** Well, we weren't being recapitalised. We were doing it privately. Sorry, I can give a better answer. I do think at that time it was primarily being driven by John, yes. So I was hearing from John about his meetings with Shriti. But I also want to be just clear that, from time to time, I would see her as well. I think it tended to be after this time, more than before this time.

**Q82 Michael Fallon:** Were you shocked when you wrote this file note down that, in effect, senior figures in the Government, officials or Ministers, might have been asking you to fiddle the LIBOR?

**Bob Diamond:** I think what is interesting is my reaction to that note was appreciation of Paul Tucker in doing his job. What he was trying to tell me was, "Bob, there are Ministers in Whitehall who are hearing that Barclays is always high. That could lead to the impression that you are not funding yourself." That is why I took so long to walk through it earlier. My first reaction was, "John, you have to get to Whitehall. You have to make sure they know that we are funding fine. It's not wonderfully, it is adequately, but we have an equity issue about to settle in two days. We're raising £6.7 billion of capital when a number of British banks had just taken capital from the Government." This was a very, very pressurised situation, Michael. So, I wouldn't have used the word "shocked", but this is probably a momentous week in the history of Barclays, and the history of the financial markets.

**Q83 Michael Fallon:** I understand all that, but the effect of what you have written down here is that Ministers or officials were in effect asking you to fiddle your submission.

**Bob Diamond:** I didn't believe that, no.

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**Q84 Michael Fallon:** What did you think they were trying to do then? I mean, that's what it says here, doesn't it—

**Bob Diamond:** I have had conversations with—

**Michael Fallon:**—“it did not need to be the case that we appeared as high as we have recently.”

**Bob Diamond:** That's not the first conversation I had with Paul about relative levels of LIBOR. I wouldn't say it was exactly those words, but Barclays had consistently been at the high end during the financial crisis. I was worried, if I can be perfectly frank. You will see in that note to the file what I said back to John—sorry, to Paul. I am paraphrasing, but I said, “Did you explain to the Ministers the real story, which is that other banks are posting rates below ours and yet are not borrowing money at those levels? It's not that our rates are wrong, but we are worried.” And I can't say this, because I didn't know this to be true, but I was worried at looking at that.

Other banks—and this is why, Michael, I have gone to such pains to say this. We had banks with secret loans. We had banks that were being nationalised. We had banks in Germany that were struggling. By the way, I am not talking about Deutsche Bank, but WestLB, I think, were struggling at that time. So there were clearly a number of banks that were posting levels significantly below ours—didn't seem to us to be right. And so, if this is going to lead to an impact on our ability to raise equity in the markets, this is at the very core of banking. This is at the very core of funding. This is a huge issue.

**Q85 Michael Fallon:** Sure, and you discussed it earlier, you have just told us, with Paul Tucker. Are there notes of those meetings?

**Bob Diamond:** Not that we have located. Sorry, that sounded unusual. Not that we know of.

**Q86 Michael Fallon:** Not that you know of.

Okay, could I turn now to the lack of an instruction to Jerry del Missier? You say in your supplementary submission here on page 2 that Jerry del Missier concluded that an instruction had been passed from the Bank not to keep the Libors so high, and therefore passed down the direction to that effect to the submitters. Given that you see del Missier, presumably every day, how did he misconstrue the purpose of this phone call? How did that happen?

**Bob Diamond:** You read the note, and I think the Chairman said he misconstrued it. I think Jerry has been very honest that there was a misunderstanding, or a miscommunication, between the communication of the Bank of England down, and that he was the person that instructed. I think while I was not aware of that, I do think it is important to put in the context what actually happened. I would refer you back to those same pages in October and November. If you look at the impact on our rate of LIBOR relative to the others, we never moved into the submission territory, so the top four rates are excluded from the submission. It was wrong, it was pressure put on the LIBOR centres, but it did not change the published LIBOR rate. It changed our submission, but we were still one of the excluded rates.

**Q87 Michael Fallon:** I understand all of that. What I want to know is, how did Jerry del Missier get this wrong, when you had just been talking to him? How did he not believe it was an instruction, either from the Bank or from the public authorities?

**Bob Diamond:** Michael, with apologies, I can't put myself in Jerry's shoes, with what he said here. The FSA is one of the three regulatory agencies that worked with Barclays for three years. In addition to this report they also did an individual investigation of Jerry, and their conclusion was to clear him: that it was a miscommunication or a misunderstanding. Jerry was cleared by the FSA when they investigated him. I may be using the wrong word, “clear”, but you know what I mean. During this time, the FSA, separately from this investigation, investigated Jerry, and said, “It's a miscommunication or a misunderstanding. It's not something that we, the FSA, are going to act on.” So, when I was made aware of this I talked to the FSA to confirm that that was their conclusion.

**Q88 Michael Fallon:** Okay. Can I turn to the Department of Justice appendix A, paragraph 42, which refers to general concern among your employees, that they “attempted to find a solution that would allow Barclays to submit honest rates without standing out from other members of the ... Panel, and they expressed the view that Barclays could achieve that goal if other banks submitted honest rates”. Were you aware of that argument your submitters were having with the BBA and the FSA and the Bank?

**Bob Diamond:** I am certainly aware of it now, post the investigation. I think in here—it is appropriate to bring that up now—on page seven, there is a chart of how many times people at Barclays discussed with the FSA, the BBA, the Fed, and the Bank of England, that although we were posting rates, there was a worry that others may not be posting rates at the level where transactions could occur. It is an important part of this overall discussion, particularly in the context of the industry-wide issue, that these were issues that were brought up with the regulators consistently over a number of years. I think one of the reasons they hadn't been apparent in earlier years is that it took the credit crisis to explode the difference between one bank's rates and another bank's rates. For a very long time rates were so tight and there was so much liquidity in the market that if someone was a little bit off it didn't show as much, and it really exacerbated the impact.

**Q89 Michael Fallon:** But my question was whether you and the senior people were aware that your employees were having this argument?

**Bob Diamond:** No.

**Michael Fallon:** It goes on to say: “These communications, however, were not intended and were not understood as disclosures through which Barclays self-reported misconduct to authorities.” Should you not have been aware of that?

**Bob Diamond:** Let me get to that exact spot so that I know where it is. Which page is that, Michael?

**Michael Fallon:** Paragraph 42, page 18 of appendix A.

**Bob Diamond:** The Department of Justice, did you say?

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**Michael Fallon:** The Department of Justice statement.

**Bob Diamond:** I think you'll recall that in one of those discussions—and I know this because of the investigation, but as I said, I was not aware of it at the time—there was a meeting to discuss this between the compliance head at Barclays and the FSA. The report back was to carry on.

**Q90 Michael Fallon:** But you were not aware of that.

**Bob Diamond:** No, I was not. The discussion was, as you said, just to make it clear, about being in a pack versus being at the top.

**Q91 Chair:** Bearing in mind how important that rate was to Barclays, as you said earlier, what does it say about the management culture that you weren't aware of those discussions?

**Bob Diamond:** Chairman, if I put in context the three things we are dealing with: with the trader misconduct, as soon as that was identified—

**Q92 Chair:** We are talking about the discussions at the time, to which Michael has just been referring, rather than going all the way back to square one and going all through these three separate episodes. Why, when this got serious, were you unaware?

**Bob Diamond:** It was not flagged to that level. Part of that was that there were ongoing meetings at a level below that with the regulators.

**Q93 Chair:** Why not? What was with wrong with Barclays, that something so important was not reported up?

**Bob Diamond:** There was a feeling that it had been resolved. Was there a general understanding? I want to be sure which question you are asking. The question that there may be some firms that are not reporting levels—

**Chair:** I think you have answered the question.

**Q94 Mr Ruffley:** Mr Diamond, on page 3 of the FSA notice it says, "Barclays acted inappropriately in breach of Principle 5 on numerous occasions"—that is principle 5 of the principles of business—"between September 2007 and May 2009 by making LIBOR submissions which took into account concerns over the negative media perception of Barclays' LIBOR submissions." I am going to use the shorthand "lowballing". Okay?

**Bob Diamond:** Yes.

**Q95 Mr Ruffley:** Fine, so I do not have to repeat that. In relation to that, the FSA go on to say on page 3, which I am sure is burned in your memory, "Senior management's concerns" about what other banks were doing—perhaps not telling the truth, as Mr Fallon has referred to—"resulted in instructions being given by less senior managers at Barclays to reduce LIBOR submissions in order to avoid negative media comment." That was going on well before 29 October 2008 and your telephone call with Paul Tucker. Is that correct?

**Bob Diamond:** Yes.

**Q96 Mr Ruffley:** It has to be, because that is what the FSA reported. Can you tell us when you discovered that this lowballing activity was going on?

**Bob Diamond:** During the investigation.

**Q97 Mr Ruffley:** So you did not know it was going on when you spoke to Mr Tucker on 29 October 2008.

**Bob Diamond:** No. That would have been before the investigation. So I was not aware of it.

**Q98 Mr Ruffley:** Okay. When did you discover? You say in the course of the investigation. What month approximately?

**Bob Diamond:** There are two things that happened, David, so I have to go back. Soon after the credit crisis, so into 2009, there was a request from the CFTC to investigate—I might be using the wrong word "investigate"—to do a study.

**Mr Ruffley:** Investigate will do.

**Bob Diamond:** It was during that, when both the situation of the credit crisis 2007–08 was part of what I was learning going through the investigations—

**Q99 Mr Ruffley:** Forgive me, I do not wish to be rude in interrupting, but give me an approximate date when you discovered this lowballing—which is the subject of the FSA notice; that is why you have been fined and that is ultimately one reason you have lost your job, Mr. Diamond—was going on. It is simple question: approximately.

**Bob Diamond:** The findings of the investigation, other than things I learned as a witness—please, this is important, David, I should be able to answer—came to me four or five days before they were published. I wasn't alone in that but other members of management, because of the conversations we have been having as witnesses, were not over the Chinese wall. My job was to make sure that we had the investigation going on as it was reporting to the board. I think as I explained to the Chairman—

**Q100 Mr Ruffley:** With respect, for the third time, what month did you discover that the lowballing was going on? Just give me a date.

**Bob Diamond:** This month.

**Q101 Mr Ruffley:** This month? As late as this month. It raises the question why on earth you as Chief Executive did not know that this was going on on your watch? You said to an earlier question that you had daily reports on LIBOR.

**Bob Diamond:** I think this refers to—

**Mr Ruffley:** We know what it refers to. We are talking about the lowballing and I defined that at the start of this questioning.

**Bob Diamond:** Let me put it in context. I think that is fair. These are important questions and we should not rush through them. If you look at the period 2007–08, again using the same charts that we all have but without going through them, in almost 90% of the cases in that whole period—

**Q102 Mr Ruffley:** No, with respect, you have made that point. You have said this many times and it is on the record; we don't need to repeat it, with respect. It

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was high relative to other banks. The fact remains that the FSA said, notwithstanding the fact that it was high relative to the other banks, that it was still a breach of principle 5. You accept that, don't you?

**Bob Diamond:** Yes, and—

**Q103 Mr Ruffley:** Yes, okay. I want to make some progress on this.

**Bob Diamond:** Can I say one quick comment? That I do agree with you—

**Mr Ruffley:** Thank you.

**Bob Diamond:** The reports that came to me daily were the rate of LIBOR, not the relative ratings.

**Q104 Mr Ruffley:** But why did you not follow up with Mr—appropriately named—del Missier? He got the wrong impression; no one is disputing that. Did you have any discussions with him afterwards, because you copied this to him on 30 October, didn't you?

**Bob Diamond:** Yes.

**Q105 Mr Ruffley:** You had no discussions with him about what he had taken away from that copied e-mail, which was your conversation with Paul Tucker.

**Bob Diamond:** This was not the first time Jerry and I had had discussions—

**Q106 Mr Ruffley:** No, after he saw it on 30 October.

**Bob Diamond:** I was not aware that Jerry had a miscommunication or a misunderstanding. Jerry did not say that to me.

**Q107 Mr Ruffley:** Didn't you discuss with him, after you had copied that e-mail to him, the contents of the Paul Tucker note that you did?

**Bob Diamond:** As I have said, my main focus in that note was the issue with Whitehall and discussing it with John.

**Q108 Mr Ruffley:** What did you say to del Missier after you sent that e-mail, which was your account of your discussion with Paul Tucker on 29 October? That is all I am asking. What discussions did you have with Mr del Missier about that?

**Bob Diamond:** I have no separate recollection other than—

**Q109 Mr Ruffley:** You do not recall?

**Bob Diamond:** We would have talked about—

**Q110 Mr Ruffley:** What did you say after you copied him in on that e-mail? As the FSA makes clear, he had a misunderstanding of what was required of him. You accept that, don't you?

**Bob Diamond:** Yes.

**Q111 Mr Ruffley:** So what discussion did you have with him about your conversation with Tucker?

**Bob Diamond:** Discussion about the contents of the note? That I was unaware that Jerry had the impression that the conversation that I had with Paul, either by note or by conversation, was an instruction, and I was not aware that he did instruct.

**Q112 Mr Ruffley:** Are you, Mr Diamond, to the best of your knowledge and belief, under investigation in your capacity as former chief executive of Barclays Bank plc? Are you under any civil or criminal investigation by either the FSA, the SEC, the CFTC or the United States Department of Justice?

**Bob Diamond:** Not that I know of.

**Q113 Mr Ruffley:** Not to the best of your knowledge and belief. Okay. Do you think a criminal prosecution of a banker—that is to say, a criminal prosecution resulting in a custodial sentence—would be a necessary deterrent for bankers who are either reckless and/or committers of wrongdoing?

**Bob Diamond:** I think that that is a decision for the regulator.

**Q114 Mr Ruffley:** I am asking for your personal view. You have been through the mill in the last few days, and I am sure some people have sympathy for you, Mr Diamond. Given that you were talking about the culture on the "Today" programme lecture—you have had quite a lot to say, haven't you, about the role of banking in our society—do you think the role of banking in our society should include a more punitive regime, such that wrongdoing by people acting recklessly or deliberately to mislead markets should lead to custodial sentences for bankers? It requires a straight yes or no. What do you think?

**Bob Diamond:** I think that people who do things that they are not supposed to do should be dealt with harshly. I think they should go through due process. We have been through a process ourselves of dealing harshly with people. David, when I got the results of this investigation—it was because of the interviews, as I have said; I did not see a lot of the detail; I was aware there was an investigation and I was broadly aware that things were coming out—and when I read the e-mails from those traders, I got physically ill. It is reprehensible behaviour. If you are asking me should those actions be dealt with—absolutely.

Immediately, when it became clear during the investigation that there was specific actions, it was dealt with at the time. We did not wait for the end of the investigation. There were times during the investigation when it was less clear, and due process was important. There were times when it was helpful to the investigation for people to be placed on suspension as opposed to terminated. I want to assure you, David, that that behaviour was reprehensible. It was wrong. I am sorry. I am disappointed, and I am also angry. There is absolutely no excuse for the behaviour that was exhibited in those activities and the types of e-mails that were written.

I stand for a lot of people at Barclays who are really, really angry about this. One of my biggest worries is that this is wrong, and I am not happy about it, but we used all the resources that we could to make sure that the people whose behaviour we knew was there were dealt with, with both the regulators in terms of anything that we can do in that regard. This does not represent the Barclays that I know and I love and it does not represent the work of 140,000 people who are working day in and day out for their clients and customers. We have to be very careful, knowing how

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bad this was, that Barclays also got on top of it. There was no limit to the funds that could be invested for this investigation. We had it report directly to the board, not to the management of the organisation, and we are taking actions on it. It was wrong.

**Q115 Mr Ruffley:** A final question, Chairman. The Chancellor of the Exchequer, Mr Osborne, has said of your demise, “I think it is the right decision for the country.” Do you agree?

**Bob Diamond:** I was not aware of that and I think my decision was the right decision for Barclays—

**Q116 Mr Ruffley:** And for the country, the Chancellor says. Is that something you agree with, Mr Diamond?

**Bob Diamond:** David, I love Barclays and I am not going to speculate on anything else. I love Barclays, but I also will tell you, for almost 25 years I have been a part of the financial services industry in the UK. I have developed great relationships with regulators at the Bank of England, at the FSA and the Treasury. I have loved my time here. This is a great place to work.

**Q117 Chair:** I am glad that you can say that on 4 July.

This misunderstanding over your file note led to wrongful under-reporting, which David was just referring to. It is a very unusual file note. Do you understand our scepticism that even though you talked to del Messier every day, you never succeeded in clearing this misunderstanding up?

**Bob Diamond:** If you have any scepticism about what I am telling you I would be very surprised at that, yes.

**Q118 Mr Mudie:** I am just a wee bit worried about how you ran that firm and your judgment. It starts with what you said to Mr Fallon. You and John Varley seemed to have a great fear and idea that Alistair Darling was wandering about the country looking for major banks to nationalise.

**Bob Diamond:** I didn't think that.

**Q119 Mr Mudie:** No, you did. You said you had to worry about this because the Government was nationalising banks. Did you really think that Alistair Darling was looking to nationalise Barclays?

**Bob Diamond:** I did not feel that about the Chancellor at all.

**Q120 Mr Mudie:** Well that is what you said, though.

**Bob Diamond:** I was not referring to the Chancellor if I did—apologies.

**Q121 Mr Mudie:** But let me just ask you the same question as David, but wider. David asked you about phase 3, which was after the conversation on 29 October 2008 when the regulator, or the American regulator, indicated that they were going to do an examination. Is that the first time you heard of any of the activities in phase 2, which was the rig the rate in the public service, or phase 1, which was rig the rate for the benefit of Barclays? Is that the first time you

knew anything was going on in your bank of that nature?

**Bob Diamond:** I think what you are asking—the traders' behaviour was reprehensible—

**Q122 Mr Mudie:** No, I am just asking when you knew of it.

**Bob Diamond:** When I knew of it was during the investigation, if that was your question. But I want to correct one thing you said, George. You said that the traders were acting on behalf of Barclays. They were acting on behalf of themselves. It is unclear whether it benefited Barclays but I don't think they had any interest in benefiting Barclays, they were benefiting themselves.

**Q123 Mr Mudie:** Mr Diamond, if we take phase 1 where they were cheating, and cheating pensioners, pension funds, cheating the ordinary public, cheating investors, you did not know anything about that and yet the regulator can document a trader sitting with a submitter and shouting across the room, “This is the rate we are going to declare. Does anybody have a problem with that?” I don't expect you to look at all the e-mails, but did you run such a firm that nobody in the firm would think that was something the boss should know because this is crucial and goes to the integrity of the bank?

**Bob Diamond:** Again, George, this was reprehensible behaviour.

**Q124 Mr Mudie:** I know that. I know that, Mr Diamond. What kind of firm were you running? You are now out of a job because of the attack on the integrity of the bank—that was the behaviour. Was there nobody in your firm, when that was happening openly with traders, who came to you and said, “Bob, you are going to have to watch this because we are going to be in deep trouble”?

**Bob Diamond:** This first came to light during the investigation.

**Mr Mudie:** Yes, okay. I hear that.

**Bob Diamond:** The positive side is that the organisation said, “We have a problem, and we have to fix it.”

**Q125 Mr Mudie:** No, Mr Diamond. From your point of view, that does not wash.

**Bob Diamond:** Can I finish?

**Mr Mudie:** No, it does not wash. The real worry you have then, and you should have, is how were you running that firm if the staff did not have the confidence, the interest or the intelligence to come and say to the boss, “Some people are getting up to actions that could destroy the bank”?

**Bob Diamond:** None of this information, until the investigation, came above the desk supervisor level—

**Q126 Mr Mudie:** Well, what about phase 2? The FSA report says that in September 2007: “Senior management at high levels within Barclays expressed concerns over this negative publicity.” Their concerns “in turn resulted in instructions being given by less senior managers”. Who do we describe as the senior management in Barclays, who were concerned about

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the effect of your boasting a higher figure than your competitor banks and who were worried that a Labour Government of such radical beliefs that they were looking to nationalise banks would pounce on you unless you did something? What senior management were those?

**Bob Diamond:** My understanding from the report, and the regulator has made the decision—

**Q127 Mr Mudie:** No. We are sitting here on 4 July and the report has been published. You have now had three years to find out who the hell were these senior management. Would you mind telling us?

**Bob Diamond:** It was people in the group treasury.

**Q128 Mr Mudie:** Right. And they would not think to tell you or del Missier?

**Bob Diamond:** At the time, I wasn't the chief executive, so it would not necessarily have been me.

**Q129 Mr Mudie:** It was in your field, though.

**Bob Diamond:** No, it was the group treasury.

**Q130 Mr Mudie:** Yes, it was in your field, so why didn't they tell you?

**Bob Diamond:** I do not want to disagree with you on the bigger question, but at the time I was responsible for the investment bank, the asset management business and the wealth business. I am the chief executive today, but your question is right, George. This was wrong behaviour. As soon as it came to light, it was addressed in a significant way, and I think the regulators have said that this is an industry-wide problem. There are other examples of this—

**Q131 Mr Mudie:** No, no, Mr Diamond. Just let me put this to you, because this is what the ordinary person out there will think. They were doing this, and then, if we move on to phase 3, you have a telephone conversation on 29 October 2008 and your deputy, del Missier, apparently misunderstands what you said, goes off and instructs his people to get the rate down. Why didn't they—you are telling us, which is the point—turn around and say, "But, Jerry, we have been doing it for 18 months"?

**Bob Diamond:** I'm sorry—

**Mr Mudie:** "We have been doing it for 18 months."

**Bob Diamond:** I did not get where that came from. I'm sorry, George. In October 2008, I was not aware of the behaviour going on in 2007—

**Mr Mudie:** No, you didn't get it. I will go through it again. On 29 October 2008, you had a conversation with Tucker, about which you spoke to del Missier. He misunderstood and, as a result, instructions were given to get the rate down. What I am asking is: what kind of organisation were you running? If he did that, why didn't someone turn around to him, and then he tell you, "Bob, we've been doing that for 18 months. They've been doing it all through 2007"? You did not have to have that conversation. They were doing it. That is what they were doing. It could destroy the bank, and they were doing it. When you had that conversation—

**Bob Diamond:** Well, the behaviour was wrong. The impact on the actual rate—

**Q132 Mr Mudie:** We know that the behaviour was wrong, but the management in your place was extremely worrying.

**Bob Diamond:** Keep in mind, George, that this was not changing LIBOR rates, this was trying to influence where they were in the pack.

**Q133 Mr Mudie:** Oh yes, this was in the public interest. This was to save you being nationalised. When did John Varley discover all this, because he was the chief executive? If he had been in your seat now, he would have been sacked or he would have resigned. What did he know, because he was doing your job throughout that period? When did he say to you, "Bob, we have a problem here"?

**Bob Diamond:** John and I were both witnesses and so it was inappropriate during the investigation to discuss either of our investigations. We were both of the mind that we had to put all of our resources behind the investigation to find out what happened and eradicate it. I am sorry to come back to it again, but it is a sign of the culture of Barclays that we were willing to be first, we were willing to be fast and we were willing to come out with it. That does not excuse the behaviour.

**Q134 Mr Mudie:** You've been well briefed. That is not the point that tells the world about Barclays, that tells the world that two chief executives of Barclays have been running the firm and it has been doing fundamentally wrong things and your senior management have known about it, and they have either been too frightened or too uninterested to tell the chief executive. That is a very worrying thing to come out of the inquiry.

**Chair:** Is there any response that you want to make to that?

**Bob Diamond:** I think that the culture has shown that when we have a problem, we get all over it. As soon as it was known, it was dealt with. I think that that is an important thing. There is a reason why an industry-wide problem is coming out now.

**Q135 Chair:** One wonders how much more noise there has to be in the firm about it, before it does, as you put it, come out. When you have derivatives traders shouting out their positions across the trading floor "to confirm that other traders had no conflicting preference prior to making a request to the Submitters"—that is paragraph 54 of the FSA report—does that not say something about the culture in Barclays?

**Bob Diamond:** The fact that the supervisors did not raise it further is wrong. I agree.

**Q136 Andrea Leadsom:** Mr Diamond, you seem to be inhabiting a slightly parallel universe, because you talk about the culture of Barclays as if that is the thing that saved Barclays, but that is the thing that is the problem. Surely you must realise how enraged people are at the criminality. You talk about reprehensible behaviour, but it is actually criminality. There is certainly a lot of talk that you have been unapproachable and that that is part of the reason for this. We also know that the absolute motivation for those traders prior to the financial crisis was their own

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personal gain, presumably because their personal reward was only linked to the profitability of their book and not to the profitability of the bank. What would you say to that?

**Bob Diamond:** In terms of the facts—which is the question?

**Q137 Andrea Leadsom:** Do you live in a parallel universe to the rest of the UK?

**Bob Diamond:** Andrea, I am just going to say it again. The behaviour, when it came up, was between 2005 and 2007, primarily. There were few instances after that. There have been none since the investigation started. It is wrong, it is reprehensible, it makes me angry, it makes me disappointed, and it puts—particularly coming out in this way—a real stain on an organisation.

**Andrea Leadsom:** Yes it does.

**Bob Diamond:** It was 14 traders, Andrea. We have a couple of thousand traders.

**Q138 Andrea Leadsom:** Can we just go on to that, because I want to focus on the criminality, not the issues of the financial crisis? The CFTC says that it took place between mid-2005 and late 2007, and sporadically afterwards—certainly into 2009. There are 173 separate recorded requests for rate fixing to be done, either up or down, plus 58 for Euribor, 26 for Yen LIBOR and 11 requests coming from ex-Barclays traders who are now at other banks asking Barclays submitters to fix rates on their behalf, so when you say it was limited to a small group of traders, there was clearly a significant amount of collusion going on.

**Bob Diamond:** They were not looking to fix rates; they were looking to impact the LIBOR submission.

**Q139 Andrea Leadsom:** Can you answer the question?

**Bob Diamond:** It's wrong.

**Q140 Andrea Leadsom:** So do you agree that this isn't a tiny issue that is limited to a small group of rogue individuals and that this is actually collusion on something of a grand scale? Time will tell how grand it was. What do you have to say about those individuals and the fact that that they were allowed to be incentivised simply to worry about the profitability of their own book to the extent that ex-Barclays traders, who presumably had some prior loyalties from the rate submitters, were actually able to persuade them to advantage them when they had left the group? What does that say about the culture at the Barclays?

**Bob Diamond:** The behaviour was appalling. The behaviour was absolutely appalling and as soon as we knew it—it has been eradicated. When we discovered this, some traders had already left and some were removed immediately. When it was clear that there was this behaviour, it was dealt with immediately. I cannot go back and change that, but I can deal with it.

**Q141 Andrea Leadsom:** And how many have gone to prison?

**Bob Diamond:** I understand that there will be follow-up criminal investigations on certain individuals.

**Q142 Andrea Leadsom:** And you would support that?

**Bob Diamond:** It's not up to us, but we are certainly not going to stand in the way of it.

**Q143 Andrea Leadsom:** Let's go then to the process by which this sort of activity could have been passed up through the bank. Where did you sit during the period of 2005 onwards? Where was your desk? Did you have a desk on the dealing room floor in the fixed-income department at any time during that period?

**Bob Diamond:** No.

**Q144 Andrea Leadsom:** So you have never sat there. Did you ever take part in the daily morning meeting on the dealing room?

**Bob Diamond:** I don't recall that. If it was—certainly not since probably the late 1990s.

**Q145 Andrea Leadsom:** And were minutes taken of the morning meeting?

**Bob Diamond:** I wasn't a part of the minutes of the morning meeting.

**Q146 Andrea Leadsom:** But would minutes have been taken?

**Bob Diamond:** I think it was done over the intercom, so I am not sure that there were minutes. There may have been.

**Q147 Andrea Leadsom:** I think that is a very important point, because it would be very interesting to see whether the question of "what we would like LIBOR to look like today" was ever discussed over the tannoy system, since it clearly does not seem to have been something that anybody bothered to keep at all secret.

**Bob Diamond:** If it had been, it would have come out in this investigation. This is a very, very thorough investigation.

**Q148 Andrea Leadsom:** So if minutes were taken and if such an issue as falsifying LIBOR had come up—

**Bob Diamond:** I am sure that would have been looked at in the context of the investigation.

**Q149 Andrea Leadsom:** Okay. That would be interesting to track down.

So whose job would it have been in the dealing room to look for criminal activity? Whose function was it to be looking for criminal activity and how did they do that?

**Bob Diamond:** That would fall within the area of compliance.

**Q150 Andrea Leadsom:** And how would compliance go about seeking out evidence of criminal activity within the dealing room?

**Bob Diamond:** I am not sure that they were looking just for criminal activity, but they were looking for people complying with all the rules and regulations that we follow. There are many ways—from technology, from meetings, from training of people, from reviews of people—so it is quite pervasive.



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**Q151 Andrea Leadsom:** So would compliance sit in the dealing room or not?

**Bob Diamond:** I am sure that some of the people do.

**Q152 Andrea Leadsom:** Okay, so they would have been in a position to have picked up on this type of activity going on.

**Bob Diamond:** They didn't, so that's the only answer.

**Q153 Andrea Leadsom:** They absolutely never did?

**Bob Diamond:** I think I have been very clear that this did not get above the supervisor level until we uncovered it. Once we uncovered it, we eradicated it. It was wrong. I have no other way to explain it. We did not get a report above the supervisor of the desk level at any level of senior management in the firm. The second that we did, the investigation was all over it and the behaviour was stopped.

**Q154 Andrea Leadsom:** Would a desk supervisor know and appreciate that falsifying LIBOR is an offence? Would they have been aware of that at the time?

**Bob Diamond:** Of course.

**Q155 Andrea Leadsom:** They would certainly have been aware of that. So desk supervisors themselves would have been entirely complicit in this fraudulent activity.

**Bob Diamond:** I think there had been cases where desk supervisors were aware and other cases where they were not. In those cases where desk supervisors were aware, they have been dealt with if it was clear. It is done and dealt with. In some cases, we have asked them either to be suspended or to stay on during the investigation with their compensation suspended if we needed them for the investigation or if it wasn't clear and we needed the full due process. In each and every one of those cases, that due process is going on as we speak and it began the moment that the investigation was published and announced.

I don't want to leave any impression about how sorry I am, how angry we are or how disappointed we are. What I am saying in the context of Barclays, which is an amazing institution that I love, is that there are people doing things for their communities and for their customers and clients. There are 140,000 of them, and we are all impacted by these 14 traders, and it is not okay. It is not okay. No one is saying this was okay. It was wrong.

**Q156 Andrea Leadsom:** The point I am trying to get to is one about the attitude within the bank that allowed those 14 traders to do what they did. Can we just go back to the point about the desk supervisors? You are saying that every desk supervisor would have been clear that falsifying LIBOR was wrong. They would have known that.

**Bob Diamond:** I would think that would be true, yes.

**Q157 Andrea Leadsom:** The bank would require them to know that that was wrong.

**Bob Diamond:** I would think that would be—

**Q158 Andrea Leadsom:** What action would they be required to take as desk supervisors if they knew that something going on was wrong? What was the procedure at the time if I, as a desk supervisor, knew something was illegal?

**Bob Diamond:** You keep coming on the same issue. It was wrong. It was not reported up. It should have been reported to compliance and to their supervisors.

**Q159 Andrea Leadsom:** I am trying to understand what the procedure was that they did not follow, which they should have followed to raise that higher, but it did not happen. What was the actual procedure? Can you point to it in the Barclays compliance manual?

**Bob Diamond:** I don't have the manual with me, but I am sure it is both compliance and to their boss.

**Q160 Andrea Leadsom:** So they would have been openly required to raise that to a higher level.

**Bob Diamond:** Of course.

**Q161 Andrea Leadsom:** It would be very helpful to know who they should have raised it to, and which part of the Barclays organisation that would have gone through to get to the board.

**Bob Diamond:** Sorry Andrea, that is very simple. It's compliance.

**Q162 Andrea Leadsom:** Just through compliance. Not through the treasury committee—

**Bob Diamond:** Well, also to their boss. But in terms of a supervisor level, the responsibility to inform their boss, but also a responsibility to inform compliance. I think there is no dispute there.

**Q163 Andrea Leadsom:** Effectively, you would confirm again that this was people not doing their job.

**Bob Diamond:** In cases where that happened, they were not doing their job and they are being dealt with. I want to make for the Committee to know this again: it has been difficult to have some of these facts out there, because they are bad.

**Q164 Andrea Leadsom:** Of course. We understand that.

**Bob Diamond:** It impacts the reputation, it absolutely does—I also want the Committee to understand that there are aspects of this that are industry-wide, but this bad behaviour, I am not blaming on anyone. I blame it on these individuals and they are being dealt with.

**Q165 Andrea Leadsom:** What steps have you taken now in the light of the clearly and openly fraudulent behaviour to look at other possible areas within the bank that could also be subject to such behaviour?

**Bob Diamond:** I would say two things. First, I was gratified when I got the final report, very gratified, that the fact that we did not wait to get this report was recognised by the Department of Justice, which says that our systems and controls have dramatically improved—

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**Q166 Andrea Leadsom:** I am sorry. Can you answer the question? Mr Diamond, which other areas within the bank have you looked at where there may have been fraud?

**Bob Diamond:** It has been many years since this happened, and you can imagine how many different audits. We have a lot of programmes—

**Q167 Andrea Leadsom:** For example, Mr Diamond, are you concerned that possibly the gilt-edged market has been in some way fixed by Barclays traders? Have you examined whether there was any potential for them to rig market auctions or other rate fixings within financial services? Have you examined those areas?

**Bob Diamond:** That would be a regular part of our audit cycle, yes.

**Q168 Andrea Leadsom:** As, indeed, would LIBOR fixing, wouldn't it? That would have been a regular part of your audit cycle, and yet, you didn't spot this for years.

**Bob Diamond:** Overall, yes.

**Q169 Andrea Leadsom:** So if you did not spot the LIBOR manipulation for years—

**Bob Diamond:** But it was the behaviour before the submission was put in.

**Q170 Andrea Leadsom:** What I am asking you is, in the light of the fact that your audit failed to notice for several years that fraud and corruption was going on under your noses, very openly, have you now looked at other areas of the bank to see whether something like that has been going on there for years, too?

**Bob Diamond:** Of course.

**Q171 Andrea Leadsom:** So this could not happen again? There would not be any merit in an inquiry into whether other parts of Barclays have been fraudulently fixing rates?

**Bob Diamond:** No, the way to do that is to start by going through our processes, controls and audit reports, and if somebody wasn't happy with those and made suggestions that there are other places to look, of course, we would do it, but that is part of the overall process.

Andrea, one of the things looking back—by the way, this is not meant as an excuse. The behaviour was abhorrent, so I am not making an excuse, but context is helpful. It is interesting because David and you have focused so much on the culture, and I understand that because there was such bad behaviour. Many of the rate setters in Barclays have been here for 25 and 30 years. This is a core part of the Barclays UK business that Jesse was asking about earlier. This is not something that was created recently, so many of these people have been in their jobs for quite a while. The second thing I would say, and it is important to have it in context, is that it was not perceived by the industry to be high risk. Part of that was that for so many years the spreads were all so tight before we saw this that it wasn't considered high risk.

**Q172 Andrea Leadsom:** You are really just damning the culture even further. You are effectively talking about the level of complacency, that it had been going on for years; people had been there for years.

**Bob Diamond:** I didn't say it was going on for years. I said that—

**Q173 Andrea Leadsom:** You said that the people have been there for years.

**Bob Diamond:** Audits are often based on where we see the risk to be highest. The risk in the area of rate setting exploded during the financial crisis.

**Q174 Andrea Leadsom:** I am not talking about the financial crisis. I am specifically talking about the criminality in the heydays before the financial crisis. I want to be clear about that. The key point, isn't it, is that individuals were remunerated just to look after No. 1, even to the point that people who left and went to other banks could still persuade someone, for the price of a bottle of Bollinger, to help their book? This was not about the banks; it was about absolute corruption in individuals in Barclays, and it was helped by the attitude within the bank that people were allowed to be remunerated vast sums for the profitability of their own book, regardless of what that did to the bank.

**Bob Diamond:** I think you take the conclusions way too far, but I am not going to defend the behaviour of that group of people. The behaviour was wrong; their compensation was not based on just their own book. I am not going to disagree with you, Andrea, that behaviour was wrong. It has been eradicated and dealt with. There is no excuse for the behaviour.

**Q175 Mr Love:** Taking the conversation that we have had so far, do you accept there is something wrong with the culture of the banking industry in this country?

**Bob Diamond:** Andrew, that is an appropriate question, given the financial crisis, given what I have had to deal with in a short time as chief executive, from the PPI scandal to swap mis-selling with small companies, to the LIBOR scandal. I think there are aspects to the culture of financial services that are changing post financial crisis, and appropriately changing and evolving. Andrea's point—not the bad behaviour, which is wrong at any time, in any age in any business, but the context of people being rewarded more broadly on firm results, for example, is something we do even more of now. I think that—

**Q176 Mr Love:** Sorry to interrupt, but can all the problems that you have just highlighted, plus the one we are here to discuss, be answered by changes in regulation? Surely something much deeper is the problem with our banking industry. Would you accept that?

**Bob Diamond:** Andrew, there were problems with the banking industry that led to PPIs, for example. Today, one of the difficult things for bank chief executives is to recognise that there were problems like PPI that happened many years ago over a period of time, but we still have to fix it today. The best we can do is recognise where there those problems were, be

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completely transparent with the regulators and, internally, understand exactly what the impact was, learn from those mistakes, and if customers or clients were impacted, put it right.

**Q177 Mr Love:** There is something more you could do. You could join the calls supporting the merit of having an independent investigation into the banking industry in this country. Would you support that?

**Bob Diamond:** My opinion is that there is a lot of regulation right now and it has heightened tremendously post the crisis. I would worry. We are trying to balance safe and sound banking with jobs and economic growth, and competitiveness in our trade around the world. I do feel that the level of regulation, the level of scrutiny is higher, the focus is higher. If I go back, Andrew, to the period of the crisis, it was difficult that, when regulation was not this strong, other institutions failed, and that has been a burden on the taxpayers and on the industry. We have a better regulatory environment today. I would be in favour of allowing the changes from the tripartite to the Bank of England to take hold before we do something else and add to it.

**Q178 Mr Love:** But that's merely a regulatory change—superficial. I sympathise and support your call for regulatory change, but there is something much deeper at work here, and that has to be ventilated. I am asking whether you think there will be a positive result for the UK banking industry. Will it re-establish trust and confidence and make you more transparent? Would that benefit the banking industry?

**Bob Diamond:** I think in many of these things, it is a balance between how it is done, who does it, what the results are, how intrusive it is and is it impacting our ability to do business with our customers. It is hard to give a simple answer.

**Q179 Mr Love:** When your former chairman, Mr Agius, resigned, he read a statement out that said that the “unacceptable standards of behaviour within the bank have dealt a devastating blow to Barclays’ reputation”. Do you accept that?

**Bob Diamond:** As I said in my opening statement, I think the actions that were announced last week, even though this was part of something that was industry-wide and happened many years ago, are a shock. With Barclays being the only bank right now in the frame, it puts even more pressure on Barclays and it has had more impact on its brand and reputation.

The single biggest reason, if I can say that, that I stood down is that I have an obligation to 140,000 people who work extremely hard and who have a great client business. Every one of our businesses in Barclays has been improving market share since the crisis, and I can't let this small group of people impact the tremendous work that the people of Barclays do with their communities and customers.

**Q180 Mr Love:** We've heard that in the recent past. On the deferred bonus scheme for senior executives in Barclays bank, anyone who does harm to Barclays' reputation may be asked to forgo some of those deferred bonuses. Do you think that that is appropriate

in your circumstances in that you agree that Barclays' reputation has been harmed?

**Bob Diamond:** That's certainly a question for the board.

**Q181 Mr Love:** There has been comment and press reports that the board is pressing you to give up future share awards. Is that accurate? Are you minded to look appropriately at its request?

**Bob Diamond:** Andrew, you may understand this when I say it, but I have not been an avid reader of the press over the last week or so.

**Chair:** Do you have any more questions, Andrew?

**Q182 Mr Love:** Just one. You rather took my attention away.

In relation to the final pay-off, as you leave Barclays, do you think that there has to be recognition in that final pay-off of what went wrong in Barclays? What should be done to put it right in the future?

**Bob Diamond:** The 16 years of my time at Barclays were a time of immense pride. We have an episode here that we have to fix, and I think that those are questions for the board. I have not asked it, nor has that been of interest to me in the last day or so since I resigned. My focus was on preparing for today.

**Q183 Mark Garnier:** Mr Diamond, a bit earlier you spoke to Mr Norman about your time at CSFB and, prior to that, at Morgan Stanley, when you were in the fixed interest and foreign exchange departments. Did you spend time way back in the 1980s actually on a dealing desk with the P and L, working among all the traders?

**Bob Diamond:** Yes.

**Q184 Mark Garnier:** So you are very familiar with the culture of what it is like to be a dealer and a trader?

**Bob Diamond:** I was a trader, yes.

**Q185 Mark Garnier:** When you were there, did you ever speculate—I am not for a moment suggesting that you did this—with your colleagues how much life would be easier if it were possible to perhaps adjust the closing price of the gilt at the end of the day, in order to make your P and L look a tiny bit better?

**Bob Diamond:** This may age me; I guess it does. I wasn't pre-LIBOR, but my trading days were mostly in the US—

**Q186 Mark Garnier:** It is not about LIBOR. It is just about the sort of culture of idly speculating among your colleagues of an easier way of putting in a better result at the end of the day.

**Bob Diamond:** Nothing like that, no.

**Q187 Mark Garnier:** You would never have done it? You never even speculated about it?

**Bob Diamond:** Speculated about what? That we could cheat it?

**Mark Garnier:** Yes.

**Bob Diamond:** No, I didn't.

**Mark Garnier:** Not even over a glass of beer or something when shooting the breeze?

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**Bob Diamond:** Never. It's an easy question.

**Mark Garnier:** The reason I ask that is because you then came in and set up Barclays Capital, and you controlled everything in a big organisation—

**Bob Diamond:** I'm sorry? I did a good job?

**Mark Garnier:** You did a job.

**Bob Diamond:** Just looking for a little love, that's all.

**Q188 Mark Garnier:** During the course of that, you would be establishing reporting lines, compliance lines, audit trails, all that kind of stuff. What I am trying to get to the bottom of, is looking at the compliance risk involved in this. By the time you were setting up Barclays Capital and running it, you would have spent quite a lot of time within this industry, and you would have spent quite a lot of time with these—to be fair—hot-blooded individuals in their late 20s and early 30s who were running these trading desks. What I am trying to get a flavour of is what efforts you made to assess the compliance risk that was inherent in this type of organisation; and how you established a compliance audit trail and a compliance structure that would take into account the risk that you would have assessed, having worked your way up through the ranks?

**Bob Diamond:** Compliance was taken very seriously. I had it report directly to my chief operating officer, who had all those areas when I was chief executive of Barclays Capital, which is the time I was building it up.

**Q189 Mark Garnier:** As you were building it, bearing in mind that you were the architect—

**Bob Diamond:** Building up and growing it. It was very important. Part of the risk management function is to have both the technology and the culture in place so things like this cannot happen. While this did not present a big financial risk, the behaviour of these 14 traders, it was real break to Andrea's question about culture. It was horrible. I mean it. I was finally given all the documents on the weekend before this became public. It took me a while to get them all downloaded, so I was getting frustrated with my technology in getting it downloaded, because I got it over the weekend. As I got it downloaded and started going through it and got to some of the e-mails, I got physically ill. The culture was absolutely opposite to anything that we had wanted. On your point, we have talked about the no jerk rule. We are serious in Barclays, not just Barclays Capital, but Barclays, that when people do not behave, they have to leave. We missed it here. We missed it with 14 people and it is wrong.

**Q190 Mark Garnier:** Yes, you did. In terms of the problems that you had at Barclays Capital with the individuals trying to fix the LIBOR rate prior to the crisis, it has to be laid at your feet because you were in charge of it and you built that system. So you have to accept responsibility ultimately as a chief executive. What I am also interested in, though, turning this a slightly different way, is looking at how the rate setters work. As I understand it, your 14 traders in the swap department in New York were out there working for you, but the LIBOR submitters are

working for Barclays Bank, not Barclays Capital—correct me if I am wrong—and they are based in the London money market desk in London. Is that right?

**Bob Diamond:** Yes, slightly wrong, but you get the concept right. There were dollar LIBOR traders, some of them in New York, and the rate setters were in London.

**Q191 Mark Garnier:** This is the point. All the rate setters were working for Barclays bank in London under the umbrella of the London money market desk, is that right?

**Bob Diamond:** There were on the London money market desk in Barclays Capital at the time.

**Q192 Mark Garnier:** Barclays Capital, okay. So the London money market desk are responsible for balancing or for ensuring the liquidity of the entire organisation. The balances are coming into the whole bank and the money market traders then go out and make sure that the balance sheet balances, basically. That is what they are doing.

**Bob Diamond:** The treasury would be doing that, but that is where you were going, which is right. The execution into the markets, when group treasury decides that this is what we have to do to balance our books and they say: "Raise a billion or sell a billion", they execute that through the money markets.

**Q193 Mark Garnier:** Okay, so the treasury would work out what the book position is, they would then send an order, the money market desk would then go out and say: "We need to buy in a billion three-month dollars" or whatever on that London money market desk. Although that is an execution function, you also have a P and L book—a profit and loss trading book—on that desk?

**Bob Diamond:** Separate.

**Q194 Mark Garnier:** Is there not a large conflict of interest that, on the one hand, you have a group that is effectively executing the requirement of liquidity for the bank, then you also have traders with a P and L book in that department?

**Bob Diamond:** They were separated. There was no overlap between those. I agree with your point.

**Q195 Mark Garnier:** But they work in the same room?

**Bob Diamond:** Were they on the same floor? Yes.

**Q196 Mark Garnier:** So these guys could have been talking rather like we are talking across this table. They could have shouted across to them.

**Bob Diamond:** Not quite that, but on a number of floors, large floors, yes, in the open.

**Q197 Mark Garnier:** But as they went to the coffee machine, a guy with a book position could walk past a dealer taking a treasury instruction to go and fill a position.

**Bob Diamond:** Yes.

**Q198 Mark Garnier:** And therefore would be able to know what the order book of the bank would be,

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and then that book trader could potentially use that information to deal against the bank.

**Bob Diamond:** There was protection of the information. Group treasury had that information. All they would relay down—

**Q199 Mark Garnier:** Yes, but as you've got a dealer sitting on the desk, you have got an order ticket sitting on the desk, in practical terms the guy who is doing the dealing on behalf of treasury will write down the order, say, "Go out and buy half a billion 3 month dollars at best," and the guy walking past him on the way to the coffee machine could see it, basically, potentially.

**Bob Diamond:** I'm not sure that was possible, Mark.

**Q200 Mark Garnier:** But you can see where I am getting at. There is a potential compliance risk. This is a—

**Bob Diamond:** There is clearly in any trading operation a separation of governance.

**Q201 Mark Garnier:** Sure, but there is not a separation physically.

**Bob Diamond:** I don't mean to be holding you up on the questions. Is there something I can—

**Q202 Mark Garnier:** What I'm going to next is that within that floor, you've got the LIBOR submitters, who are the ones who are actually sitting there, working out exactly what's going on. So they are looking at the requirement of the bank, actually what they are trading at, what they could trade at a certain size—all the kind of stuff that goes into setting the LIBOR rate. And they are within that mass of people doing this trading.

**Bob Diamond:** They are on the floor, but they are in a separate area. There is some separation, but people can walk by, and—

**Q203 Mark Garnier:** It's a bit pally, isn't it? When you are thinking about this, you've got some quite important things going on. You have a trading desk running a proprietary position. You have an execution desk, operating on behalf of the treasury department of one of the biggest banks—what have you got, a trillion-pound balance sheet? One and a half trillion?

**Bob Diamond:** But they're just executing in the market. No one would know the position behind it.

**Q204 Mark Garnier:** I appreciate that, but this is information. It is all about—

**Bob Diamond:** Sorry, no, they wouldn't have the information on the positions of the group.

**Q205 Mark Garnier:** Assuming they are not—

**Bob Diamond:** I take your point. We have to be careful—

**Mark Garnier:** Absolutely.

**Bob Diamond:**—on the information front.

**Q206 Mark Garnier:** It creates an image of compliance slackness. Of course, the other point about this is we then come back to the LIBOR submitters. This is something which I just haven't been able to

reconcile in my head. I can understand a hot-headed idiot sitting in the New York swaps desk, thinking it would be cool to send a bottle of champagne around to the bloke in London and say, "Can you fix LIBOR for me?" But here is the reality: why weren't those LIBOR setters turning round to these traders and saying, "Guys, you can't do this. You're not allowed to do this. Stop sending me e-mails; otherwise I will tell my boss"? Why weren't they doing that?

**Bob Diamond:** Some were and some weren't.

**Q207 Mark Garnier:** Who wasn't listening?

**Bob Diamond:** I am sorry?

**Q208 Mark Garnier:** Who wasn't listening? You say some were saying this to their bosses.

**Bob Diamond:** I'm sorry. Some were accepting, some weren't. Not every rate setter was involved in it.

**Q209 Mark Garnier:** No, sure. But the rate setters were seeing this information coming in, weren't they? They were seeing these e-mails coming in. They were being sent; they were coming in. They were reading them. You would agree that?

**Bob Diamond:** 177 requests, or whatever the number was.

**Q210 Mark Garnier:** There aren't examples of 177 reply e-mails saying, "Stop this. You're not allowed to do it." There weren't 177 examples of a LIBOR setter going to his line manager or his compliance officer and saying, "I think we've got a problem"—until 2007, when we then did start to have that. So answer me this question: why were the LIBOR setters not alerting the compliance department or bouncing those requests for rate setting back to those traders in New York?

**Bob Diamond:** During that period, where this was the traders, they weren't and it's inexcusable.

**Q211 Mark Garnier:** Now in 2007—you then get evidence in the US submission that in December 2007, a senior LIBOR dealer finally e-mailed his supervisor to say that it was too high; he was asked to move it down. He said: "My worry is that we"—both Barclays and the contributor bank panel—"are being seen to be contributing patently false rates. We are therefore being dishonest by definition and are at risk of damaging our reputation in the market and with the regulators. Can we discuss this please?" The supervisor directed these concerns to the senior compliance officer, a member of senior management. That was in 2007, so this had been going on for two or three years prior to that. It was only then that we started seeing any evidence that these rate setters were actually turning round and saying, "No, you can't do this and we need to do something about it." So what happened after that? What was the process whereby you—would you have heard about this?

**Bob Diamond:** No. As I said, this came to light to me during the investigation. Now, looking back—Mark, if I am answering the wrong question, just tell me—there was pressure from the group treasury in the '07-'08 period, during the financial crisis, and there was a recognition that what they were trying to do was not

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to impact LIBOR rates but to get in the pack, if I can use that phrase. That was discussed with the FSA.

**Q212 Mark Garnier:** Sure, we have gone over that point a great deal. I am trying to get to the problem of why the LIBOR setting system was so flawed. I appreciate that it wasn't under your jurisdiction at that time, because you were running Barclays Capital and this would have been part of—no, this was part of you, wasn't it?

The FSA final notice, paragraph 147, says: "Barclays had no specific systems and controls in place relating to its LIBOR and EURIBOR submissions processes until"—

at the earliest—"December 2009". You did not put in place policies giving clear-cut guidance about the importance of integrity. You did not provide training for submitters about the submissions process. It goes on, in paragraph 148: "Barclays did not believe the submission of LIBOR was an area of significant risk." Yet, this is so fundamentally core—training your staff. My colleague will follow on about that, so I will not stray too much into it, but getting the culture right is not just on the dealing desk, but also on the middle office functions which is, I suspect, where LIBOR rate setting is. I don't understand why that was not the case. The LIBOR setters, I would imagine, are not hot-headed 25 to 35-year-olds who like drinking Bollinger at the weekends. They are probably slightly boffin-like people. So what has gone wrong there? Why has that department got it so fundamentally wrong?

**Bob Diamond:** I'm trying to disagree with your characterisations of people, but I know what you mean, because the rate setters, in almost each case, had been with Barclays for 25 or 30 years; they were some of our most senior staff. The issue of "not a risk" is complex, because clearly there were risks that no one understood, but usually it's about whether there is financial risk involved. It wasn't seen as an area—since it is the setting of rates—that could create a financial risk. But one of the lessons learned in this is that our systems and controls, with no excuses, were not strong enough. We started right away to get that improved, and that is the area where I do feel good that the Department of Justice has been clear that we have a very strong set of systems and controls in that area now. We didn't wait until the end of the investigation, and it has improved.

**Q213 Mark Garnier:** I have one last question, and this is giving you the chance to put your side of the story when it comes to the FSA. In 2007–08, your compliance officers did start a dialogue with the FSA. You may not necessarily have submitted all the information, perhaps, that they needed, but do you feel none the less that you were let down by the FSA in terms of the feedback and the advice that you were getting from them, given that you were at this point reporting what was going on?

**Bob Diamond:** I'm not going to pick out just the FSA, but is there clear evidence throughout our testimony that with the Federal Reserve Bank of New York, the FSA, the Bank of England, and BBA, there were multiple, many-month, many-year conversations

initiated by people at Barclays that there was an issue around these issues? If I can say this, Mark, in the context of the financial crisis, there was an exposé in *The Wall Street Journal* over a number of days about LIBOR and the fact that people may not have been reporting right. There was a report from the Federal Reserve Bank of New York that looked at LIBOR during the financial crisis and said that the rates that people borrowed at had reached 36 basis points higher than the rates that they were posting, and that there were other indexes that were better indications.

**Q214 Mark Garnier:** We know all this. We don't really have time—

**Bob Diamond:** Let me just finish. We can't sit here and say that no one knew there was an issue around LIBOR in the industry. We can't do it. This wasn't a surprise. Bloomberg carried the story. *The Wall Street Journal* carried the story. The Federal Reserve Bank of New York did a report. And on multiple occasions, Barclays visited with the various regulators to bring these issues to their attention. Obviously, there were some issues.

**Q215 Mark Garnier:** And they left you high and dry?

**Bob Diamond:** I'm not going to blame this on anyone else. The behaviour was our fault.

**Q216 Chair:** But they were asleep at the wheel, weren't they?

**Bob Diamond:** Chairman, it's very difficult to say yes to that question. But were we disappointed with multiple agencies, and multiple conversations that should have—

**Q217 Chair:** They really weren't wide awake, were they?

**Bob Diamond:** There was an issue out there and it should have been dealt with.

**Q218 Teresa Pearce:** To take you back to something you said earlier—that these traders were not acting on behalf of the bank; they were acting on behalf of themselves—I take from that that they were receiving reward for their actions?

**Bob Diamond:** Andrea asked a similar question.

**Q219 Teresa Pearce:** You didn't answer that question.

**Bob Diamond:** Was their reward based solely on the profitability of their book? Absolutely not. But I have to be clear: that was one of the factors that went into it. It was self-serving. In other words—

**Q220 Teresa Pearce:** But is that not part of the remuneration package and the appraisal process? Where has the bank fallen down?

**Bob Diamond:** Absolutely, it is part of it.

**Q221 Teresa Pearce:** So the senior management at the bank has fallen down in not appraising people properly and actually rewarding them for poor conduct?

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**Bob Diamond:** I wouldn't have said that. I think where we fell down is in not recognising that this behaviour went on until we caught it during the investigation.

**Q222 Teresa Pearce:** But surely these people were appraised every year.

**Bob Diamond:** As I said, I think the individual profitability is one of many factors that enter their appraisal. Whether it was for their ego or for their compensation, it is still bad behaviour. Teresa, I am not disagreeing with where you are going at all.

**Q223 Teresa Pearce:** Mr Diamond, when appraisals are done and evaluations are made, profitability will be looked at. How are ethics looked at? Is that part of an appraisal?

**Bob Diamond:** Yes. Behaviour is an important part and some of this time we did not realise there was bad behaviour. As soon as we realised, people were fired.

**Q224 Teresa Pearce:** That is interesting because that takes me to the annual report 2011. Reports are not just financial; they are your public window to the world of the mindset of your organisation. The Barclays plc annual report 2011 is 283 pages long. As you would imagine, it mentions the word "risk", 1,734 times, "profit" 301 times, "bonus" 44 times, "integrity" twice, "corporate values" once and "ethics" not at all. Is that the way you want to present Barclays to the world?

**Bob Diamond:** I don't want to present it as a—

**Teresa Pearce:** It's your annual report.

**Bob Diamond:** You did a wordsearch for certain words.

**Teresa Pearce:** I read your report.

**Bob Diamond:** I would like to have a little bit more study before I agreed with that. If the question is: do I believe that ethics, integrity and values are important? You bet. They are a precondition for anything else. I don't care how smart you are or how hard you work. If you don't have values and integrity, it's a non-starter. It is difficult to say in an environment where I am also saying, although I wasn't aware of it at the time, there was bad behaviour. It was not bad behaviour, it was reprehensible.

**Q225 Teresa Pearce:** You said earlier that it was wrong, reprehensible and it made you physically sick. You have said that this was a small number of traders. What sort of professional development do these traders have, because surely all bank staff have to undergo that continual professional development? What review was ever made of that?

**Bob Diamond:** What review was made of the training?

**Q226 Teresa Pearce:** You've got a group of people in the bank who have behaved so badly they made you physically sick, and yet it seems to me—these are people who have been there for 25 years—

**Bob Diamond:** No, sorry, that was the setters.

**Q227 Teresa Pearce:** Oh, right. So you have people—a small group of people, you said—who, would they not, be registered with the FSA as fit and proper?

**Bob Diamond:** I would think so, yes.

**Q228 Teresa Pearce:** Yes. So do you not as their employer have some responsibility to make sure that they are fit and proper? Would it not be part of your responsibility to make sure that they had undergone proper personal development?

**Bob Diamond:** Yes.

**Q229 Teresa Pearce:** So something has gone wrong here.

**Bob Diamond:** Yes.

**Q230 Teresa Pearce:** It is my understanding that since November 2011, the FSA requires all fixed-line and mobile phone communications to be recorded, but it was best practice before that. The conversations in October 2008 with the Bank of England—would they have been recorded?

**Bob Diamond:** Sorry, my conversation with Paul Tucker?

**Teresa Pearce:** Yes.

**Bob Diamond:** Not to my knowledge.

**Q231 Teresa Pearce:** It wouldn't have been recorded?

**Bob Diamond:** No.

**Q232 Teresa Pearce:** Was that normal?

**Bob Diamond:** The call came to me in my office in New York. I am sure during the investigation people would have looked for that, and I have not heard a recording.

**Q233 Teresa Pearce:** Sometimes they only have to be kept for a certain amount of time; maybe it was not kept for that much longer. Do you regret that, given that one of your famous quotes is, "for me the evidence of culture is how people behave when no one is watching"? If there is no one taping calls, how are they behaving when no one is listening?

**Bob Diamond:** I still believe that. We had some exceptions to it and they have re proven the point. At least 14 traders did not behave very well when no one was watching, and I agree with you.

**Q234 Teresa Pearce:** Surely the culture of a bank comes from the top?

**Bob Diamond:** Yes.

**Q235 Teresa Pearce:** So is that one of the reasons you have resigned?

**Bob Diamond:** Not this specific issue. I think what we did in this report, Teresa—listen, it is always hard to explain oneself. I was responsible for Barclays Capital at the time, and I am responsible for Barclays as chief executive—I was going to say today—until yesterday. But that is different from personal culpability for these actions, and I do not feel personal culpability. What I do feel, however, is a strong sense of responsibility—a very strong sense—that, when we

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find mistakes, we recognise them and are open about them, and some people are open in the organisation. We report them to the regulators and take action against people.

Let me take a second to say I know how angry this can make others, because it made me angry that we had this behaviour, but I am also very proud of Barclays because they did not worry about “How is this going to look?” We worried about “Let’s find out exactly what happened.”

**Q236 Teresa Pearce:** It was a voluntary disclosure?

**Bob Diamond:** Yes, it was a voluntary investigation at the time. We went beyond by bringing in two of the world’s most successful and large international law firms and by having a report, independent of management, to the board and the chairman of the board—

**Q237 Teresa Pearce:** How much did that forensic exercise, which enabled you to make that voluntary disclosure, cost in fees?

**Bob Diamond:** The amount of money that we have spent on this investigation is about £100 million.

**Q238 Teresa Pearce:** Do you use a balanced scorecard approach at Barclays?

**Bob Diamond:** Yes.

**Q239 Teresa Pearce:** Does ethics appear in the balanced scorecard?

**Bob Diamond:** I am not sure that is the word used in every balanced scorecard.

**Q240 Teresa Pearce:** What would you think it might be?

**Bob Diamond:** Integrity.

**Q241 Teresa Pearce:** In the last three years, what was actually done in specific actions, not just broad statements, to rectify the cultural rot that has led us here today?

**Bob Diamond:** We looked at the area and broke this into three categories. If we take the traders first and foremost, it has been a significant investment in the system and controls in this area. It has been a very serious upgrade of compliance, which had disappointments, and we have a new head of legal and compliance and a number of new people under them throughout the entire organisation as a result of this. And it has been the actions on the individuals. Those would be the three specifics that I give.

With each individual who was involved in this, as I said, if it was clear what the behaviour was and we didn’t have to wait for a final investigation, we acted. If it was unclear and we needed to give due process, we are acting now. There were some cases where it was felt that investigation is better served by suspending their compensation but keeping them working and part of the investigation; those people are also being dealt with now.

**Q242 Teresa Pearce:** In January 2011, you came to this Committee and said “there was a period of

remorse and apology for banks. I think that period needs to be over”. Do you think it is?

**Bob Diamond:** Can I tell you it was February, not January, and avoid the question?

**Q243 Teresa Pearce:** No. It was before my time. I take it that it was the early part of 2011.

**Bob Diamond:** It did not come across in a way that I meant it, or in a way that was positive. I wish I hadn’t said it.

**Q244 Teresa Pearce:** Would you like to restate what you did mean?

**Bob Diamond:** You know it’s interesting, Teresa. What I said then, and what I wanted to say, is that banks have to be better citizens. It is interesting that I was aware of this investigation; I wasn’t aware of the results.

**Teresa Pearce:** I am aware that you were aware.

**Bob Diamond:** This is one of the reasons why citizenship was one of my four planks when I became chief executive. We have to evolve the culture of banking—

**Q245 Teresa Pearce:** It has taken a long time, though. Mr Diamond, you have grown up in banking; you are a career banker. You have been through the trading floor and you have had a meteoric rise, yet you say that the behaviour of these people was so shocking that it made you physically sick. There will be a lot of people listening to this who weren’t shocked. They were disappointed and angry, but they weren’t shocked. You were so shocked, yet you have spent your life in banks. Surely the culture does not come as a surprise to you.

**Bob Diamond:** There is no area that I have been responsible for in my career in banking where I would allow this kind of behaviour. It is wrong that it took us too long to find it, but remember this behaviour was primarily in 2005 to 2007—it was pre-financial crisis. I think it is wrong. I’m making no excuses. It was wrong, but I think the actions we took when we found out were all appropriate, including recognising that we would be out ahead of the pack in helping the regulator. We did not think the focus on this would be as intense in terms of potentially harming our brand and reputation. One of the reasons, standing down as chief executive or not, that I thought it was important to come here today is Barclays. Barclays is an amazing place. I am so privileged—

**Q246 Chair:** Okay, we got that. We really did.

**Bob Diamond:** Chairman, it is not indicative of these 14 people. That is important to get across.

**Q247 Teresa Pearce:** Mr Diamond, you have told us repeatedly that you love Barclays. It seems you do not know anything that was going on. It seems you have not even met Barclays, let alone love Barclays. You just keep saying, “I didn’t know” and “I wasn’t aware”.

**Bob Diamond:** I’m saying more than that. I am talking a lot about what we did about it and how we behaved. I think that’s unfair.



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**Q248 Chair:** You said it is not indicative of Barclays or of these 14 people, but you have also said that, as was just read out, “For me, the evidence of culture is how people behave when no-one is watching.” Nobody at all was watching the trading desk, were they? Not even the compliance officer, who is meant to be sitting there.

**Bob Diamond:** And the behaviour was bad.

**Q249 Chair:** So you will forgive us for thinking that there is something more widely wrong with the culture than just 14 rogue traders.

**Bob Diamond:** That is why I have taken such pains to go into the things that we have done and to put it in context, but I do not think I have taken any moment or second to excuse the behaviour.

**Q250 Mr McFadden:** Mr Diamond, in the past few years, Barclays has been fined by the FSA for serious failures in systems and controls related to transaction reporting. It has been fined \$300 million by the US authorities for knowingly and wilfully violating international sanctions in Cuba, Iran, Libya, Sudan and Burma. It has been fined for client money breaches. It has had to pay £60 million in redress for mis-selling risky investment products to older people. All of that is before the issue that we are talking about today. What do these repeated breaches of the law and regulations say about the culture at Barclays?

**Bob Diamond:** Many of the cases abused PPI. Cases such as the issue about the US fine were from periods that were quite a while ago. Many of them were in areas I am not as familiar with, because I had not worked in those areas. So I think what I can say is that in each and every one of those cases, we have been open with the authorities and worked to get the solution and the changes in place.

**Q251 Mr McFadden:** The point I am making is that the LIBOR scandal is not an isolated incident.

**Bob Diamond:** We have had PPI. We have had a number of them. It is a large organisation—that is no excuse for any of them—but many of these go back quite a period of time. One of the frustrations of keeping our organisation positive today is that in so many of these issues—because it has come out this week and the shock is there—it feels like this is current behaviour as opposed to behaviour that came from quite a while ago. That does not excuse it. That is not meant as an excuse. We still have to go through the process.

**Q252 Mr McFadden:** You have quite famously pressed for a “One Barclays” culture throughout the organisation. You have said many times today that the quotes and the e-mails that you saw from the traders made you physically sick, and of course you knew nothing about their activities. But is it not the case that your hard charging, high risk, sometimes high reward investment bank culture helps to give rise to the kind of risk taking that sits uneasily with what the public want from banks, which is more boring perhaps, but which is activity around mortgages, lending to small businesses and looking after people’s savings?

**Bob Diamond:** You know how I’m going to answer this, but I think it is a fair question. These issues have been in Barclays Capital around the traders, but in the period from 1997, which Jesse mentioned, when Barclays Capital was formed, to today, it has exited proprietary trading, it has focused on its clients, and it has a track record in the business of compliance, of consistency of earnings and of risk management. This was a horrible experience and bad facts, but look at the track record of Barclays Capital and their consistency of earnings and their management of risk. In areas like foreign exchange, where Barclays was not considered one of the world’s top 25 participants in that market when Barclays Capital was formed, today it is No. 1 or No. 2. Some 97% or 98% of the business—something like that—is all electronic and straight through processing, so there is the investment in technology and the investment in customers. It is interesting that, of the fines you mentioned, the sanctions with Iran were something that was done in the UK retail and corporate bank. The PPI, which is £1.3 billion so far, is in retail banking and credit cards. That does not excuse it and it is in past periods. The head of the retail bank today is as angry as you can think, but a lot of this was happening in what you would think of as the boring banking. If we look at the history of the United Kingdom financial services industry through the crisis, the Bank of Scotland failed, Halifax failed, Alliance and Leicester failed and Northern Rock failed, so it was not investment banking that was creating the issues. I worry that people are willing to assume that it is risky behaviour that causes these things, or bad culture.

**Q253 Mr McFadden:** But isn’t it?

**Bob Diamond:** It is bad culture that causes these things and in a case like this we had bad performance and the people are gone. We had to fix it. It can happen in an investment bank and it can happen in a retail bank as well. We need a strong culture, we need strong systems and controls, but this is not about a business model.

**Q254 Mr McFadden:** You obviously have not had them with the litany of these regulatory breaches. Is it not a big part of the reason why you have had to resign? You talked in your letter last week to us about changing the culture, but is not the problem that you have come to symbolise a culture that itself needs changing?

**Bob Diamond:** I don’t think so at all. As I have said to you, I think last week I recognised, in spite of this, the support that I had and we had as an executive team to fix this and move on. If you look at the performance of Barclays through the financial crisis and the things that we are doing in our businesses in Africa, the technology that is being developed in Barclaycard, the Pingit technology that is coming to the UK, we are right at the forefront. There are a lot of fantastic things.

**Q255 Mr McFadden:** Okay, you’re investing a lot in technology. Can I take you back to the memo that was released yesterday? It has been hugely covered today.

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**Bob Diamond:** I think that that memo was part of the investigation. I do not think that it was just released yesterday.

**Q256 Mr McFadden:** Paragraph 112 of the FSA report talks about the period a year before the call with Paul Tucker and says that senior managers at Barclays instructed submitters to put in false information to the LIBOR rate-setting process because of concern over media attention. We are not talking here about rogue traders; we are talking about the financial crisis period, when you were concerned over media attention. That was a full year before the call with Paul Tucker. You accept that that is accurate.

**Bob Diamond:** Yes.

**Q257 Mr McFadden:** Again, in paragraph 118, in November 2007, there is a conference call where manager E said of the intended submission—I won't give the full quote—"It's going to cause a...storm." A lower rate was submitted and, again, that was a full year before the Paul Tucker call, wasn't it?

**Bob Diamond:** Yes.

**Q258 Mr McFadden:** Paragraph 127 of the FSA report details an instruction by a manager to the Barclays money market desk to give a lower estimate of funding costs to the FSA than the desk originally intended after FSA inquiries, because the, "honest truth" would be a "can of worms". That was in March 2008, seven months before the Paul Tucker call. Am I correct?

**Bob Diamond:** Yes.

**Q259 Mr McFadden:** So there is a pattern. After the rogue trader period—you could call it period one—from 2005 to 2007, there is a pattern within the financial crisis where there were consistently dishonest lower rate submissions to LIBOR, detailed in paragraph after paragraph of the FSA report. Do you accept that?

**Bob Diamond:** Can I put some context on it afterwards?

**Q260 Mr McFadden:** Do you accept the facts that I have just read out?

**Bob Diamond:** Yes, and we presented in our documents to you, in the period 2007 and 2008, during the financial crisis, there was pressure being put on LIBOR submissions from the group treasury area to get back in the pack. What I want to point out to you, Pat, is this: if you go back to the same fundamental issue, which is that Barclays met with the four different regulators multiple times, we were consistently towards the high end of submission. In this case—

**Q261 Mr McFadden:** That is not the question I am asking. I really want to focus on—

**Bob Diamond:** Let me just finish this and I will come back. I promise that I will answer it directly. What was happening was that the behaviour was wrong. It was inexcusable, but the actions were getting us back into the pack and getting us away from the notoriety and the questions like, "Barclays, why do you always

have to be high?" and the potential implications of that. We weren't trying to lower our rates. In about 90% of the cases in that entire 12 or 13-month time frame, Barclays was knocked out and at the high end.

**Q262 Mr McFadden:** I must dispute that, because each of the paragraphs that I read—paragraphs 112, 118 and 127 of the FSA report—detailed instances where Barclays agreed, against the rules, to put in submissions that were lower than the actual cost of borrowing.

**Mr Ruffley:** That's right.

**Mr McFadden:** So you were putting in submissions that were lower. What I really want to get at is, in the context of at least a year of the financial crisis, when you acknowledged that there was a pattern of concern about the media and the image of the bank putting in lower submissions, why did you release this document about the phone call with Paul Tucker yesterday? Why was that released, given that you are acknowledging now that you had been doing this for a year before the phone call?

**Bob Diamond:** I didn't release the document. It was a package that came from Barclays. I think the document was part of the FSA investigation and the Department of Justice and the CFTC, so I wasn't aware that it was new, but the package came from Barclays. I think this was the package that came yesterday, Chairman.

**Chair:** Yes.

**Q263 Mr McFadden:** The point that I am making is about how significant the phone call is given the pattern detailed in paragraph after paragraph of the FSA report, which says that you had been consistently lowballing your submissions in the year running up to the phone call.

**Bob Diamond:** There are two answers to that. First, the behaviour of the people who were influencing the lower submissions is wrong, and we were clear on that from the beginning. To answer that in another way, what was the importance to me of the call from Paul—not the note, but the call? The call from Paul was alerting me that there was concern in Whitehall about why Barclays rates were high. It was important to me to get to John Varley, whom my note was to, so that he could get in touch with Whitehall and make sure that there wasn't a misunderstanding that Barclays was high or whether other people were posting rates that made us appear to be high and that there wasn't a function of not being able to get funded. The importance of the call to me was the heads-up about the concerns in Whitehall, who felt that since we were the high LIBOR submission, it might mean something more than it meant or something different than it meant.

**Q264 John Mann:** Before I ask my questions, I just wonder, Mr Diamond, if you could remind me of the three founding principles of the Quakers who set up Barclays?

**Bob Diamond:** I can't, sir.

**Q265 John Mann:** I can help, and I could offer to tattoo them on your knuckles if you want, because

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they are honesty, integrity and plain dealing. That is the ethos of this bank that you have spent two hours telling us is doing so well—in fact, from what you have told us, doing so well that I wondered why you had not received an extra bonus rather than the sack. You have told us that, as I understand what you are saying, it is right that there is a criminal investigation. Some people among the people that you employed may therefore go to prison. You have told us that other banks were doing the same thing. I understand from what you are saying that you are telling us that you never questioned or analysed the rates that were reported between 2005 and 2008 and that you never discussed at a senior level the possibility of your traders misreporting or misrepresenting. Is that accurate?

**Bob Diamond:** First, in terms of honesty, integrity and plain dealing, that is how I have behaved in my entire career in the business, so I agree with that, and that doesn't mean that I knew or was aware of the bad behaviour. As soon as I was aware, I did what I could to make sure that it wasn't there, so if there is an inference that Barclays is anything other than interested in honesty—

**Q266 John Mann:** In 2005 to 2008, you never questioned, you never analysed and you never asked about any kind of misreporting by anyone in the bank. That is the case, isn't it?

**Bob Diamond:** No one was aware of any misreporting.

**Q267 John Mann:** You never asked. Did you ever read anything externally of other people suggesting that there might be some misreporting?

**Bob Diamond:** I think there were, as I said, reports that came out, probably in 2007–08 not 2005–06, but they were on the different issue of whether people were submitting appropriate LIBOR. That is more similar to the issues that we faced during the financial crisis. I was not aware of any reports on traders manipulating the submissions.

**Q268 John Mann:** You weren't aware of anyone suggesting that? Nobody came to you, not even those people who had refused to act criminally but had been asked to do so? You said to Mr Garnier that some did and some didn't. So even those who had refused to act improperly did not come and tell you—that never got to you during that three-year period?

**Bob Diamond:** Well, they didn't act improperly.

**Q269 John Mann:** No, and they didn't tell you. It does appear strange to the outside world that if people are asked to act criminally—and they choose to do so—by externals as well as internals, they don't report that to the senior management. I put it to you that that does look rather incredulous to the outside world. You said, to quote your obligation to complete transparency, that “seeing is believing”, but you seem to have seen nothing, known nothing and heard nothing in that three-year period.

Can I ask you about the following academic reports? In 1973, the first report into potential misreporting was written by a US academic called Spence. In the

period up to 2007 there were a series of reports, and early in 2007 another group of US academics, led by someone called Ewerhart, produced a precise report into this scandal, alleging that it was going on. It did not name Barclays, but alleged that it was going on in companies like yours. That was then repeated by Abrantes-Metz, who has written extensively on it, and by Michaud and Upper. We have a series of academics who are reporting that this is going on; eventually it gets into *The Wall Street Journal*, and from that, the Fed report something. You're in charge yet you are not seeing this; you are not reading it. I don't understand what you are doing.

**Bob Diamond:** I think that you've conflated two separate issues. The issue of the traders and their attempts to manipulate submissions was not part of the report by *The Wall Street Journal* or the Federal Reserve report. That was about our institutions—

**Q270 John Mann:** Yes, I've read it, but I'm also—the academic reports that led up to that were explicit. You have not read them, but you are the man in charge. You're getting paid huge bonuses. You are in charge; people are suggesting impropriety from the outside, and you are not even asking questions internally. People who have been told to act criminally are not coming to you to say that they've been acting criminally. Either you were complicit in what was going on, or you were grossly negligent, or you were grossly incompetent. That is the only conclusion.

**Bob Diamond:** Sorry, John, I agree—and I have agreed from the beginning—that the behaviour was wrong. It did not get above the supervisory level for a period of time, and as soon as it did we took action. It is hard to give another answer than that. We keep getting the same question asked.

**Q271 John Mann:** It's not that it's the same question. The point is—

**Bob Diamond:** We dealt with the activity as soon as we knew about it.

**Q272 John Mann:** The reason people out there are beginning to agree with me—you said last time, “You don't really like Barclays do you?” Well, I'm in the more favourable group compared with people out there at the moment. What they are thinking is: hang on a minute, you're in charge. You're paid bonuses—£20 million-odd a year in pay and bonuses. You're the man in charge and the buck stops with you. You are telling everyone that we've got to be judged on how we behave when no one's watching, that we've got to have complete transparency and that you can't work with the company—if someone can't work with trust and integrity, they can't be in your team. You are saying all of that. You are getting paid huge bonuses but you haven't seen any of it. You must have been grossly incompetent in your job during that period of time if you weren't complicit in this.

**Bob Diamond:** So, is there a question?

**Q273 John Mann:** A good question would be to go back to what you said to this Committee last time you were here. You said, “I think it is clear that, if any banking institution got into trouble, where you look

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first is at the chief executive.” The Chairman asked you, “Okay, but how would you lose out?” You replied, “I would assume I would lose out by both losing my job and losing any shares that I had in the company.” Will you, therefore, be forfeiting the unvested shares that you have in the company? That is what you told us you would do in this situation.

**Bob Diamond:** As I said earlier, that is a discussion with the board; I don’t make the decision.

**Q274 John Mann:** But you are a man who is in favour of consistency. That is what you told us you would do last time you came to the Committee. You have the choice in this. You can take the moral high ground.

**Bob Diamond:** John, we have been through this a number of times. The investigation of this was market leading. We have a profound issue that is an industry-wide issue, not just a Barclays issue, in terms of LIBOR submissions. I would suggest we wait and see, importantly, what the ramifications of the industry-wide investigation are.

**Q275 John Mann:** Yes, but the FSA has reported on you and it says that “there were no clear lines of responsibility for systems and controls”. You are the man in charge, the man who carries the can, the man who has been paid these huge phenomenal bonuses. You are accepting all the good side—the bonuses—while the people working for you are fiddling the system, potentially some of them going to prison, criminality. You are the man in charge. You tell us, modestly, that in such a situation you would lose your job—which you have—and that you would lose your shares. That is a pretty small price for you to pay. Have you another suggestion of how you can show some contrition to those Barclays staff across the country and the customers who are wondering and e-mailing me in vast numbers saying, “What do I do with my money? Do I take it out of this rotten, thieving bank?” That is what they are asking me. I am asking you, what are you going to do to put the record straight with your personal behaviour? Because you personally are responsible, either by being complicit or by being incompetent.

**Bob Diamond:** As I said earlier, I accept responsibility, and I also take responsibility for the actions that we have taken to correct the situation, not just at Barclays, but also the way in which we have engaged with three of the largest regulators. You know, John, and I know there was not a personal culpability around the traders, but of course there is a responsibility and I take the full results of the organisation as having been on my watch, absolutely.

**Q276 John Mann:** My final point is this. You asked earlier for a little love from my colleague, so I will offer you a little love. Frankly, what happens to the shares does nothing for the taxpayer, because it is not going back to the taxpayer. There is nothing for the customer. It goes in at the bank and disappears somewhere. Your bonus each year is equivalent to the amount of money that our largest homelessness charity Shelter has to survive on. That is how much bonus you were getting in every one of these three

rotten years—and all the others alongside you. Why don’t you make a proper gesture and put some serious money, and persuade your colleagues to do likewise, so that you can show to the outside world that you do mean business when you say you apologise, and persuade your colleagues including those who have left to do likewise? Then you might get a little love.

**Bob Diamond:** I told you I feel I have done the responsible thing in how we have handled this since the day we understood. I think the way that the Barclays management team and the culture of the organisation, whether it is PPI or this, is to recognise that when we have a problem, dig deeply to understand the problem and learn our lessons in how we behave going forward. If any of our customers or clients suffered we should make it good.

**John Mann:** Your reputation as a bank is in tatters worldwide. Someone needs to do something about that.

**Q277 John Thurso:** If you were an English cricketer, I suspect your name would be Geoffrey Boycott. You have been occupying the crease for two and half hours and I am not sure we are a great deal further forward. Let me try to widen this to the culture and ethics of banking, rather than just Barclays. The question a lot of people want answered is whether this problem over LIBOR is the disease or a symptom of a much deeper and wider malaise. Can I break again by just asking you a few questions, to which I hope you can answer yes or no? First of all, do you consider traders manipulating LIBOR for their own gain to be unethical?

**Bob Diamond:** Yes.

**Q278 John Thurso:** Do you think that managers instructing subordinates to put in false quotes is unethical?

**Bob Diamond:** Yes.

**Q279 John Thurso:** Do you believe that most submitters at other banks during the crisis were engaged in that kind of behaviour?

**Bob Diamond:** I can’t judge other banks, John.

**Q280 John Thurso:** Do you think that selling a complex swap, as was reported on 25 April, to a Turkish shop owner with very little English is ethical?

**Bob Diamond:** I do not know the situation as well as you do. We looked into each and every incident where a customer claims that there was mis-selling. There are occasions when a product has been sold to someone that probably shouldn’t have been, but in the vast majority of cases—over 90% that have gone to the FOS on the issue of derivatives and small businesses—the decisions have been in favour of Barclays. We do work hard—

**John Thurso:** I understand that from your previous answers.

**Bob Diamond:** I don’t know the specific transaction.

**Q281 John Thurso:** You can find it on the first page of *The Telegraph* “Business”, on 25 April, next to another claim, which was submitted by Graisleys Properties. It issued a writ against Barclays for

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LIBOR-fixing with a £36 million claim, based on the fact that Barclays sold it a 20-year swap against a five-year loan. Would you consider that to be ethical?

**Bob Diamond:** I do not know enough about the transaction, but I would be happy to look at it, John.

**Q282 John Thurso:** If you take all those incidents and put them together, it is possible to conclude that there is quite a considerable degree of activity that is at the least questionable and in some cases unethical. How does a bank with the culture that you have tried to put forward to us have these instances in that number happening within the business?

**Bob Diamond:** You are picking some isolated cases, and there are millions and millions of transactions a day. I know that I, in the last year-and-a-half since I have been chief executive, have been to many of the larger cities in the United Kingdom, visiting small and medium-sized businesses. The feedback and the service that they get from Barclays have been very strong. The amount of business that we are doing in business lending has increased more than any other bank in the United Kingdom in the last year-and-a-half. I feel very confident that our team gets it.

One of the frustrations with a day like today is that you are bringing something unsanctioned, which was so long ago in an area of Barclays that I was not aware of at the time. Bringing it up today is not as relevant. Even the current issue that we announced last week, most of this behaviour was from 2005 to 2007.

**Q283 John Thurso:** Does your board get a list of legal actions against it?

**Bob Diamond:** Sure.

**Q284 John Thurso:** So you will have seen, sitting on the board, a list of the legal actions. So you will know that a writ was issued in April, claiming £36 million for LIBOR-fixing and that that writ exists. That would be something that you would know, as an executive sitting on the main board?

**Bob Diamond:** I would know the summary of the legal issues that go to the board, yes.

**Q285 John Thurso:** So you would also know what the legal department was proposing to do about that?

**Bob Diamond:** Yes.

**Q286 John Thurso:** Most boards I have sat on get a list of the legal suits and have a note from the company's secretary at the legal department, saying what is going to happen. How many actions are there outstanding against Barclays for mis-selling of swaps, or is that the only one?

**Bob Diamond:** John, I am certainly not sure of the number. If there are legal actions, there aren't many. I think the number that went to the FOS over the last year was 40-something; it might have been more than that. I cannot recall. That would not have been in the legal report, because those were handled through the FOS.

**Q287 John Thurso:** If the LIBOR goes down, the break costs on a swap go up. So a guy borrows, at the start, £2 million, pays interest and has a swap. If

LIBOR tanks, he might end up having to pay another £2 million as the break cost on the swap. So that guy is now owing £4 million.

**Bob Diamond:** The economic impact of the swap in theory would be the same as a fixed loan, and if you take out a fixed loan at a higher interest rate, and rates fall—Do you mean if LIBOR goes down because rates are falling?

**Q288 John Thurso:** You would then, when your managers went to talk to him about his loan covenant—the value of his loan and the covenant he is given on that—they would then add the outstanding loan plus the new break costs together. That would mean that that person would be outside their covenant.

**Bob Diamond:** I am not sure of the point.

**Q289 John Thurso:** The point is that you would then negotiate a new margin. So all across Britain, there are small and medium businesses who, over the last five years, were advised to buy product that has tanked. The net result is that you are able to negotiate—

**Bob Diamond:** What has tanked, John? I am not sure I understand. Interest rates have dropped.

**Q290 John Thurso:** What I am saying is that there is a huge cost relating LIBOR, which most of my constituents had never heard of 10 days ago, to what is happening to their businesses. The reason that a lot of small businesses are finding it extraordinarily difficult is because of this swap that they were sold. LIBOR has gone down, causing the cost of the swap to go up, and that is a real cost to British business. The key point is that none of them understood what they were purchasing, but they were obliged to take it because those were the terms and conditions for a loan from the bank, as it was for most banks.

**Bob Diamond:** And I think there were—errors is the wrong word; I think there were parts of that that I would look at very differently, so let me walk through it.

Was there an impact on businesses in the UK in LIBOR? The issues within Barclays and also all the other banks were around dollar LIBOR, not sterling, and three-month and one-month, as opposed to the longer terms which impact retail products and business products, so it was not in sterling. Even if it was, again, if we remember it is the relative ranking that is being changed. So, the impact on businesses that have taken out fixed loans or swaps—first of all, in theory, the economic impact of that is the same, whether you take a loan and a swap, or a fixed-term loan versus a floating rate loan. The impact on the business—when you say the LIBORs went down, the LIBORs went down because the interest rates went down, because of course, the Bank of England has a low monetary policy interest rate, because of the economy. So if anyone had taken out a fixed-rate loan or a floating rate loan with a swap, they would be out not because of some issue on swaps, but on the issue of overall interest rates, which swaps follow. So I don't follow you. I do think there has been an impact on businesses who have taken out fixed-rate loans that

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it would be more economic to take that loan today at a reduced rate.

**Q291 John Thurso:** The point here is that you and I have just had a conversation lasting three or four minutes that has probably defied most people's understanding. Our banks are run by people who talk that language. That is investment banking. Our high streets used to be run by people who did not understand it but just lent people money in a sensible way. That is the cultural problem, is it not?

**Bob Diamond:** I don't think so, but I think—

**Q292 John Thurso:** Actually, what we need is not "One Barclays", but two cultures. If we are going to go on having universal banks, we need a culture that understands the high street, and a culture that understands the City. If we put them together, both will always lose.

**Bob Diamond:** And I think we have that. I think it can be done and I do not think this is about business models. The people who cover our smaller businesses—Ian Stuart and his team, throughout most of the areas in the north, is very focused on the needs of small businesses. If there is a need to provide a fixed-term loan, where it would not potentially be appropriate from a credit point of view, or you cannot get that loan and a derivative is a good replacement, the job of these bankers is to take them through understanding it. These are not derivatives people necessarily. Someone else will provide that product. I came back from Africa recently, as you and I have discussed before. In areas like Ghana and Uganda, the country is very, very interested in Barclays bringing more of the sophistication of the investment bank alongside the retail bank, because the small and medium enterprise companies in Ghana, in Kenya and in Botswana have to compete day in, and day out much more with companies coming down from China, from India and from the Middle East and they need access to: how can they hedge out commodity prices; how can they hedge out interest rates? So I think there is a place for an integrated model, and "One Barclays", by the way, John, is not about our business model. "One Barclays" is about our culture, to go back to the point that Andrea made earlier. The definition that we talk about inside is that "One Barclays" means that every single decision we make is in the best interests of the group, not the individual business, or, as Teresa said, the individual trading position. In order for us to truly believe that, everyone has to behave in that way, so it's about culture; it's about values; it's about integrity; it's about honesty; and, to use John's words, it's about fair dealing. That's what "One Barclays" is about. But I don't think the issues that we're facing are about the business model. I think they're about bad behaviour, in some cases, and, as you have said, culture.

**John Thurso:** We may have to continue to beg to disagree.

**Bob Diamond:** I am happy to continue the conversation.

**Q293 Stewart Hosie:** Mr Diamond, in your letter to us of 28 June, you spoke about your concerns about

the integrity of the LIBOR setting process. You went on to say that various individuals within Barclays had raised these issues externally, including with the BBA, the FSA, the Bank of England and the US Fed. Who at Barclays? At what level did your people raise the LIBOR-setting concerns with these various agencies?

**Bob Diamond:** I don't know the exact level of every meeting there is. In one of the letters, Chairman, is there not a discussion of who the people were on both sides—at the Fed, for example, and at Barclays? Did we not provide that information?

**Q294 Stewart Hosie:** You may have. I'm just asking whether you knew who—the kind of level at which people were raising these concerns initially—

**Bob Diamond:** It was different. It was often in the group treasury area. In some cases, it came from the compliance area.

**Q295 Stewart Hosie:** So you have group treasury and compliance people, presumably at a reasonably senior level, making approaches to regulators. Just in terms of that—in terms of the tripartite here—the FSA is named and the Bank of England is named. Did any of your people discuss this with the third leg, with the Treasury, in the UK?

**Bob Diamond:** Only—I suspect the conversation came up in the general sense that we had talked about earlier, about *The Wall Street Journal* report, the Bloomberg report, which is "Is LIBOR representing the actual borrowing rates all the way through?" as opposed to any specific compliance issues.

**Q296 Stewart Hosie:** How long had Barclays been concerned, then, about other people rigging LIBOR before they raised these concerns with the regulators?

**Bob Diamond:** As I said earlier, I think this—I was going to say "exploded", but that's the wrong word. This became a much bigger concern during the financial crisis in '07 and '08. Because rates had been fairly steady, liquidity was plentiful, and all of a sudden, with the financial crisis, we had much more volatility in rates, but we also had—banks were having more difficulty lending to each other, which is the genesis of LIBOR, because of higher capital standards or because, in some banks' case, they had taken Government money. The sum and essence of that was there was far less liquidity in the market, so more of the term borrowing of three months, six months and one year was coming from money funds, from large corporates and from asset management firms, and far less of it was inter-bank dealing, because of the higher levels of capital required or the higher charges on inter-fund dealing. So there was a fundamental change, driven by those two factors.

**Q297 Stewart Hosie:** So the argument would fundamentally be that because you knew no one was actually lending, some of the rates you were seeing stood out like a sore thumb during the crisis period.

**Bob Diamond:** Not just that. I think there were—there appeared to be postings that were being made at levels at which people would not have been able to borrow if they were looking to borrow.

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**Q298 Stewart Hosie:** What was the response, then, from the BBA, from the FSA, from the Bank of England and others when you raised concerns that some of the LIBOR rates your competitors had simply didn't appear to be right?

**Bob Diamond:** You had various levels of acknowledgement, but no action.

**Q299 Stewart Hosie:** The thing I find odd—forgive me if I'm a little blunt—is that between January 2005 and July 2008, as the FSA has said, initially for trader greed and then as a strategy for reputational risk management, Barclays were doing this, but you didn't appear to know what was happening internally till very late. It strikes me as odd that Barclays people were able to notice other people doing this, submitting rates that were repeatedly wrong, but no one internally was able to identify, even with people shouting across dealing room floors, that it was going on inside the bank. Do you understand why we find that quite difficult to believe?

**Bob Diamond:** It's why I have been very clear today not to conflate the three issues. There are three issues, the issue with traders on the desk—

**Chair:** We've been through the three issues.

**Bob Diamond:** It was wrong.

**Q300 Stewart Hosie:** I am familiar with the various time frames, the various reasons and the fact that you have apologised and said that it is wrong. I am asking why people at Barclays noticed other people doing this, but were unable, for whatever reason, to recognise that it was going on internally when people are shouting across a dealing room floor that they wanted a particular LIBOR rate to make some cash.

**Bob Diamond:** It's a completely different issue. What Barclays was talking to the authorities about was the relative ranking of LIBOR rates. What was happening with the traders trying to influence their own firm was very different.

**Q301 Stewart Hosie:** But it is not a different issue at all. They were submitting rates that were too low, just like Barclays were doing, except Barclays noticed other people doing it, but couldn't notice themselves doing it. What was the flaw in management or the culture that allowed your people to see other banks, but not what was going on in front of their own nose?

**Bob Diamond:** I think the trader behaviour we have been through time and time again, and I don't want to answer it again. The issue of trying to get back in the pack during the 2007–08 period should have come up to senior management, I agree with you. But it was an attempt to get in the pack, not to impact—to lower LIBOR rates.

**Q302 Stewart Hosie:** Yes, but it was an attempt to get in the pack so as not to be noticed; to manage the risk, and it was done in such a way that your people were submitting rates—

**Bob Diamond:** But Stewart, keep in mind that this behaviour was discussed with the FSA. There were discussions, as you know, between compliance and the FSA about the fact that people were trying to get back in the pack rather than be the high or be the next high

because of some of these issues. It doesn't excuse what was going on.

**Q303 Stewart Hosie:** When you say you discussed with the FSA, do you mean during the inquiry, or while it was happening and prior to the investigation?

**Bob Diamond:** Prior, while it was happening.

**Q304 Stewart Hosie:** That is tantamount to saying that the FSA sanctioned the submission of overly low rates?

**Bob Diamond:** It is in the documentation, but I think what the FSA would say is that they had a different interpretation of the meeting, but certainly what came back to Barclays and to the chief operating officer of Barclays Capital was that it was all—it is all documented in the report.

**Q305 Stewart Hosie:** A final question. When Pat McFadden asked about the phone call with Mr Tucker, you said the concerns were that Whitehall was asking questions. I think your answer—and I am paraphrasing—was that you would have to get John Varley to be in touch with Whitehall. Did he speak to Ministers or officials in the Treasury about that matter?

**Bob Diamond:** Yes, and I cannot remember the exact conversation I had with John after that, but he did follow up. Remember, we are right in that two-day window before we completed the equity transaction with the Qataris in Abu Dhabi, so it was a quite delicate time.

**Q306 Stewart Hosie:** I am sure it was, but it would be useful to know who he spoke to and what the nature of that conversation might be at some point if that could be provided.

**Bob Diamond:** I'll see if we can provide that. I'll see if it's known.

**Chair:** Michael Fallon and Jesse Norman have quick rejoinders.

**Q307 Michael Fallon:** You have explained how you alerted John Varley that there might be some misunderstanding in Whitehall of your funding ability. I understand that from the note. What I am not clear about is what is your understanding of what Mr Tucker wanted you to do.

**Bob Diamond:** I think that was the source of confusion within Barclays, if I can say it. This was not the first conversation I had had with Paul, Jerry and I had had with Paul, or Jerry had had with Paul. Paul's job is to work with people at our level, and, increasingly, Jerry—as president of Barclays Capital and having the markets report up to him—was closer to the activity in the trading desks than I was. So sometimes Paul would go right to Jerry, sometimes to me—

**Michael Fallon:** Sure, but what is it—

**Bob Diamond:** I am sorry, I am getting to the point, Michael. The issue was a broad discussion about, "Barclays is high relative to others"—you can see from our numbers going back to the financial crisis, that we had many conversations about this.

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**Q308 Michael Fallon:** We have seen all that, but what is it you thought Mr Tucker wanted you to do?

**Bob Diamond:** He was pointing out the problem and I was pointing out that the problem was not with Barclays; the problem was with other submissions. Sorry, it is too short-hand to say it.

**Q309 Michael Fallon:** What did he want you to do about it?

**Bob Diamond:** As I said, I did not take it as a directive; I took it as either a heads-up that you are high or an annoyance that you are high. What I said there was pretty clear. I am not quoting exactly. I do not have the note in front of me, but I said that the reality is that we at Barclays are reporting the rates at which we borrow. It certainly appeared, given that a number of the institutions that are posting below us have had to take Government money, that they are not posting at those levels, so...

This is the same issue, Michael, that *The Wall Street Journal* had reported on. This is the same issue that Bloomberg had reported on. This is the same issue that the Federal Reserve report after the crisis reported on. So I do not think that anyone should be surprised that these conversations are happening.

**Q310 Chair:** Bloomberg and *The Wall Street Journal* reporting this; it did not cross your mind to launch an investigation inside your own organisation just to check that this did not mean you too?

**Bob Diamond:** Of course, we knew our policies and I was under the impression and told that our policies were—

**Q311 Chair:** Wrongful impression.

**Bob Diamond:** Yes.

**Q312 Chair:** It did not occur to you to think, “Well, I’ve just read this in *The Wall Street Journal*, I’d better check that we’re not involved”?

**Bob Diamond:** It is the right question and, as I said, I reconfirmed our—I do not know if it was *The Wall Street Journal* article—

**Q313 Chair:** And the answer is, it did not occur to you.

**Bob Diamond:** I reaffirmed it in that note.

**Jesse Norman:** On that point, Mr Diamond, I am holding here a Bloomberg press release or article from 29 May 2008, which says “Banks routinely misstated borrowing costs to the British Bankers’ Association to avoid the perception they faced difficulty raising funds as credit markets seized up, said Tim Bond, a strategist at Barclays Capital.” So in May 2008, you have a strategist in your own organisation who is stating that these borrowing costs have been misstated. That is five months before your conversation with Paul Tucker. How could it be possible that you could not have been aware of it at that time and, indeed, actively under some internal obligation to launch the investigation?

**Bob Diamond:** Jesse, I am going to say this again, and I think we need some context here: I am not excusing any behaviour—park that for a second, if we can just have a bigger discussion. What I said is, this

is not just Barclays, and you keep coming back to Barclays, and I have told you—

**Q314 Jesse Norman:** Well, that is the institution for which you were responsible.

**Bob Diamond:** Jesse, can I finish?

**Jesse Norman:** Sure.

**Bob Diamond:** You sure? If you go back to these reports, you will see throughout 2007 and 2008, no institution of the 16 banks reporting dollar LIBOR 3-month, which was the issue that people were talking about, was at the higher end more consistently than Barclays. And Barclays was getting questions about why is it always high? And we were saying, “We are high because we are reporting at where we are borrowing money.” For someone to say that, there was a big concern that there are virtually no periods where we were low or below and getting our numbers knocked out, so clearly there was an issue there. Along with that, there was pressure being put from the group treasurers we talked about to get back in the pack—don’t always be 16, maybe be 15—which is different than impacting the LIBOR rate necessarily.

I need to say again, Jesse: I am not excusing that behaviour, but I think that it is also appropriate for the Committee to step back and say that it was a financial crisis and that there are broader industry implications. All I am saying is, look at the behaviour of Barclays in the context of what we did about it once we found out. I think the management team was decisive and unbending and fast and willing to invest and open, and the regulators applaud them for that. Also look at the fact that there are profound issues here about the operations of LIBOR during the financial crisis and the implications that may have. I applaud the Chancellor, who is going to make the investigation more broad than the industry investigation about LIBOR. I think those are the two conclusions, and I know, Jesse, there was bad behaviour and I can continue to apologise for it. I cannot change it, but it was wrong.

**Q315 Jesse Norman:** Isn’t the danger though that people won’t see this in the context of the resolute action you say was taken afterwards—

**Bob Diamond:** That’s our job.

**Jesse Norman:**—they will see it in the context of the swap scam, PPI, Protium, this Brontos tax evasion transaction that was undertaken in Italy last year with UniCredit. That is the context. They are going to say, “This is a culture that was deeply flawed, deeply corrupted, and that is where it went wrong.”

**Bob Diamond:** I hope we’ll look at this in the context of the decisive action that was taken, as a sign of the culture and the willingness that when there is a problem, we are going to get to the bottom of it; and within the context that there is a broader industry issue; and, lastly, I do hope, Jesse, that we will look at this as having been a number of years ago, not today.

**Chair:** We have been going two and three quarter hours and two more colleagues want to chip in at the finish. I will bring them in but I really am going to finish this in less than three hours. Pat McFadden and then Mark Garnier.



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**Q316 Mr McFadden:** Your final answer to Stewart Hosie implied that your “back in the pack” strategy had been shared with the FSA. Let me read out to you the relevant paragraph from their report on this: “On 5 March 2008, the FSA contacted Barclays’ Money Market Desk to ask for information about Barclays’ liquidity position. The FSA asked a Submitter to provide information including the rates at which Barclays was currently paying for funding in various maturities. The Submitter intended to state that Barclays was paying for one year funding at ‘LIBOR plus twenty [basis points]’. The Submitter discussed this in a telephone conversation with Manager D. Manager D stated ‘yeah, I wouldn’t go there for the moment [...] I would rather we sort of left that at like zero or something’. The Submitter stated ‘it’s a sad thing really, because, you know, if they’re truly trying to do something useful [...] it would be nice if they knew’, but went on to acknowledge he had been worried about stating the ‘honest truth’ because it might be a ‘can of worms’. Barclays informed the FSA it was paying for one year funding at ‘LIBOR flat’.” So the truth is Barclays did not share the “back in the pack” strategy with the FSA. When the FSA asked you about it, you lied to them.

**Bob Diamond:** There were other meetings and there is documentation of that.

**Q317 Mr McFadden:** Do you accept that paragraph?

**Bob Diamond:** That is in the FSA findings; of course I do.

**Q318 Mark Garnier:** My question is very simple. I am very suspicious when people present big charts of certain things. We have distribution of LIBOR submissions for a two-month period and for three months. Reading through the New York report from the New York authorities, they talk about one month, 12 months and they are talking of a period of two or three years. Why have you chosen just to use two months and three months? Presumably you have thought about that. Is that because it has presented things better than anything else?

**Bob Diamond:** No, Mark. What I thought was presented, and actually it was done yesterday by Barclays, but what I thought was in my pack, which I thought was the same as your pack, was 2007 and 2008. It touched on those second two periods which was about relative rankings. If you don’t have those, I am sure Barclays would be happy to send them to you. I have looked at all of them. You can also look at the one month, the 12 month, the story is similar. You can look at other currencies such as sterling and the euro and I would be delighted to have your office get that. The story would be similar and there was no attempt here other than the communications, whether it was from the discussion Paul, Jerry and I had or

Paul and I had, was three-month dollar LIBOR and many of the other issues were around three-month dollar LIBOR. That is why we picked that. We can show you sterling as well if that helps.

**Q319 Mark Garnier:** Well certainly euro and dollar LIBOR and sterling LIBOR over the period would be very helpful for the Committee if that is easy.

**Chair:** Mr Diamond, we have tried at any rate to lift the veil a little on the culture of Barclays in this inquiry over the last three hours. We have heard about unreported rigging of markets by a group of traders over many years. We have heard about market rigging in the other direction—under-reporting during the financial crisis, which was not reported to the highest levels—and of course we have had the extraordinary situation where Mr del Messier did not seem to communicate very well with you, and does not even seem surprised that he had, as he thought, got an authorisation from you to fiddle the LIBOR returns. These are all sources of considerable concern to this Committee and much more widely. Have you anything you want to add in response to that, as we close?

**Bob Diamond:** I appreciate the opportunity to come here. Chairman, as you learned today, as soon as the behaviours that we discussed—that the three regulators discussed in these reports—were identified, they were acted on immediately. There was no expense spared. We brought in the right firms, and we have taken firm action. When activities like this are found—the culture I want to see at Barclays is that when there are mistakes, we admit them, we learn from them, we act on them, and that people have consequences.

The second thing I would say in response to that is that it’s difficult for Barclays, the firm that I care about so deeply, and whose culture I know, to be isolated on this. I know Barclays and if we have another situation, going forward, we will still act the same way to come out and be the first to correct it. But I worry about the impact of being first, because we were the most co-operative and put the most resources into this, and the reaction outside the industry contact to the one firm that is out first doesn’t create great incentives for others to come forward.

At the end of the day, I look forward to the continued investigation around the issues surrounding LIBOR. I think some of those issues are profound, that came out during the credit crisis. If there is anything that Barclays can do to help in that process, I know that they will.

**Chair:** We all recognise that it has not been an easy few days for you. Certainly it has not been an easy hearing for you. We are very grateful to you for coming this afternoon. Thank you very much indeed.

**Bob Diamond:** Thank you, Chairman.

**Monday 9 July 2012**

Members present:

Mr Andrew Tyrie (Chair)

Michael Fallon  
Mark Garnier  
Stewart Hosie  
Andrea Leadsom  
Mr Andrew Love  
Mr Pat McFadden

John Mann  
Mr George Mudie  
Jesse Norman  
Teresa Pearce  
Mr David Ruffley  
John Thurso

### Examination of Witness

*Witness:* **Paul Tucker**, Deputy Governor of the Bank of England, gave evidence.

**Q320 Chair:** Good afternoon, Mr Tucker. Thank you very much for coming to give evidence, and we are in fact responding to a specific request from you to do exactly that at the earliest opportunity. I note in the pieces of paper that have come through to us this morning that the Bank of England does not hold its own records or transcripts of any of these phone conversations. Why not?

**Paul Tucker:** I think many of these records do come from the Bank of England, but we have had to pull them together and check that we have got a complete set.

**Q321 Chair:** Do you keep records of your phone conversations?

**Paul Tucker:** We certainly keep records of all phone conversations where a note has been taken. The conversation with Bob Diamond was not a conversation that I made a note of or a private secretary made a note of. Sitting here, I greatly wish there were a note of it. The reason is these were completely extraordinary times where many of us, not only I, were rushing from meeting to meeting and making an enormous number of calls, taking an enormous number of calls, and it would be wrong to suggest otherwise than that the routine system of recording things was creaking.

**Q322 Chair:** So you did customarily record all your phone conversations?

**Paul Tucker:** In the normal course of business, we would make a note of material telephone conversations, yes.

**Q323 Chair:** Has there been any internal review of what went wrong here?

**Paul Tucker:** In terms of keeping a note of this conversation?

**Chair:** And the handling of this whole issue.

**Paul Tucker:** Not yet. It is something that I think we will come back to in due course when times are calmer again. We are still living through pretty well crisis conditions.

**Q324 Chair:** So there has been no internal review of the bank's handling of the LIBOR issue?

**Paul Tucker:** Sorry, I thought you meant of recording of notes. There has not been an examination of how we make notes of meetings and telephone calls, and I

think that is very largely because of the pressure that the Bank remains under.

**Q325 Chair:** What about the LIBOR issue?

**Paul Tucker:** On the LIBOR issue, we have looked at that very carefully in the context of the three inquiries that have been conducted.

**Q326 Chair:** So there has been something done very recently?

**Paul Tucker:** There has been something done in the context of those three inquiries in terms of preparing the Bank.

**Q327 Chair:** Has that been completed?

**Paul Tucker:** In terms of the evidence that I gave voluntarily to the three inquiries.

**Q328 Chair:** Since this all happened in 2008 and the spring of 2009, which was really the most acute time of this crisis, I am trying to get to the bottom of whether between then and now—as you know this Committee has been pushing for some thoroughgoing reviews of the Bank's performance during the crisis—there has been, prior to the announcement of that work on those three reviews, any work done to examine the performance of the Bank during the LIBOR crisis.

**Paul Tucker:** If I understand the question, no.

**Q329 Chair:** The way that you are replying to me sounds as if you are being economical with the truth.

**Paul Tucker:** No, not in the slightest. I was asked whether I would give evidence, voluntarily, to the three inquiries. I did that. We got together the relevant documents as I prepared for giving that evidence, but in that context, not more widely.

**Q330 Chair:** Can we turn to the Bob Diamond file note? Does that file note of 29 October 2008 accurately reflect the conversation with him that you had?

**Paul Tucker:** Not completely. Would it help to explain—

**Q331 Chair:** Why don't we do it in stages? Is there anything in there that is wrong?

**Paul Tucker:** I think what it doesn't capture—

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**Q332 Chair:** We will come on to that. Firstly, is there anything in there that is wrong?

**Paul Tucker:** I think the last sentence gives the wrong impression, yes.

**Q333 Chair:** What should it have said accurately to reflect what you said to him?

**Paul Tucker:** It should have said something along the lines of, “Are you ensuring that you, the senior management of Barclays, are following the day-to-day operations of your money market desk, your treasury? Are you ensuring that they don’t march you over the cliff inadvertently by giving signals that you need to pay up for funds?”

**Q334 Chair:** We are going to come back in somewhat more detail to some of that in a moment. Can I just clarify, was one of the “senior figures” referred to in there Sir Jeremy Heywood?

**Paul Tucker:** Yes.

**Q335 Chair:** Who were the other senior figures?

**Paul Tucker:** The person I spoke to most in Whitehall during this period was Tom Scholar at the Treasury. The other senior officials that I spoke to less frequently from time to time were Jon Cunliffe in the Cabinet Office and very occasionally Nick Macpherson at the Treasury.

**Q336 Chair:** Just back on the earlier point I was making a moment ago, would you categorically refute the suggestion that this conversation might reasonably have led someone to suppose you were inviting Barclays to join the pack and under-report LIBOR?

**Paul Tucker:** Absolutely.

**Q337 Mr McFadden:** Just staying on the note, Mr Tucker, the first line of the Bob Diamond note says, “Mr Tucker reiterated he had received calls from a number of senior figures within Whitehall to question why Barclays was always toward the top end of the LIBOR pricing”. What was it these senior figures in Whitehall were worried about?

**Paul Tucker:** I think it wasn’t just senior figures in Whitehall. There was commentary in the market that, since the beginning to the middle of October when the then Government, the authorities, had wheeled out a pretty powerful package of measures to stabilise the banking system—capital support, funding support through the Credit Guarantee Scheme, and the Bank itself extending and enlarging the Special Liquidity Scheme, and also co-ordinated interest rate cuts across the industrialised world—whereas some market participants felt that money-market conditions could ease because funding was being provided by the official sector, Barclays had continued to pay higher rates in the market, as reflected in their LIBOR submissions.

I would say there were two separate but related concerns, and by no means only from Whitehall, from within the Bank and, I think, from within the market. One was: is the package working, and why isn’t it working? Why isn’t it working here as quickly as it appears to be working in the United States? The other element was a soft version, I would say, of: is

Barclays okay? Was the right decision taken when Barclays didn’t take capital from the Government? If you remember, Mr McFadden, the Government’s, the authorities’ three-pronged package was announced on 8 October, I believe. On the 13th, when it was announced that RBS and HBOS Lloyds were taking capital from the Government, earlier that day Barclays announced that they would not be taking capital from the Government and would be taking various other measures. There was a degree of concern about that; there was a degree of anxiety about that.

**Q338 Mr McFadden:** This is really important, because there has been huge press speculation in the last week that these senior figures in Whitehall—and we will come to who they were again—were worried to the degree that they were asking you to lean on Barclays regarding their LIBOR submission rates. I don’t want to put words in your mouth, but I am really keen to clarify this. Are you telling the Committee that what these figures in Whitehall were worried about was whether or not the policy measures that had been put in place by the Government were working, or were they worried about Barclays’ submission rates and asking you to lean on them?

**Paul Tucker:** You are not putting words in my mouth. There were two parts to this, which come together I think. Is the package working? If it is, why isn’t it working more quickly? Secondly, should we be worried about Barclays? I don’t want to say that it was expressed as concretely as this, because I can’t remember, to be honest, but there was a sense of, including in the Bank, was the right decision taken in allowing Barclays not to take capital support from the Government?

**Q339 Mr McFadden:** There is a long email from Jeremy Heywood to you, dated Sunday, 26 October, which has been released earlier today. Without going through it all, it mainly concerns why Barclays and RBS are borrowing at what appears to be above LIBOR rates. It asks about the Government’s Credit Guarantee Scheme and the fees involved, and it asks a number of policy questions about whether we have got this package right. Would you describe this email as typical of the kind of worries that senior figures in Whitehall had?

**Paul Tucker:** Yes. I think there are two parts to it. One part is: is the design of the Credit Guarantee Scheme okay? There was a debate that went on over a number of weeks on how to strike the right balance between not making it overly generous, because essentially assistance was being provided to the banking sector and no one wants to make that too cheap and it also needs to be okay with state aid, and then, on the other hand, you don’t want to make it so expensive that it does not do any good. Then there are some technical questions about that. In fact, I think the scheme was changed slightly a couple of months or six weeks later. The other point, which is in the second or third paragraph is, “There is no incentive for lenders to offer funds after 10.30 at or below LIBOR when they know two banks will continue to pay above LIBOR throughout the remainder of the day”. That is a different concern, if you like, which is

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if Barclays—and I think the other bank was RBS—are paying up, then people are going to want to lend to them, provided they do think they are sound, and that is going to dampen any easing in funding conditions and money market conditions.

Remember what the authorities are trying to do at this point. What is going on is absolutely dire. Everybody now looks back to this period and says, “Oh, the package, it saved the world,” and actually I do think it helped save the world, but at the time there was anxiety about is it working: “My goodness, we can push as much money out through the Credit Guarantee Scheme and the SLS as we like, but if people are going to continue to pay up in the money market funds”—and I would observe that that means real transactions; that is what is being referred to here—“then the rate is less likely to fall and conditions are less likely to ease.”

**Q340 Mr McFadden:** Can I ask you, did Jeremy Heywood or any other Government official that you mentioned in your opening answer to the Chairman ever encourage you to lean on Barclays or any other bank to lower their LIBOR submissions?

**Paul Tucker:** Absolutely not.

**Q341 Mr McFadden:** Did any Government Minister from the last Government ever encourage you to lean on Barclays or any other bank to lower their LIBOR submissions?

**Paul Tucker:** Absolutely not.

**Q342 Mr McFadden:** Specifically, did Shriti Vadera ever ask you to lean on Barclays or any bank to lower their LIBOR submissions?

**Paul Tucker:** Absolutely not. If I may just add one thing there, what is more I don’t think that I spoke to Shriti Vadera throughout this whole period at all.

**Q343 Mr McFadden:** Thank you. Did Ed Balls ever ask you to lean on Barclays or any other bank?

**Paul Tucker:** No. No.

**Q344 Mr McFadden:** Or any other Government Minister?

**Paul Tucker:** No.

**Q345 Mr McFadden:** If I can take you back to the note, if no one leaned on you why does the Bob Diamond note of the phone call say that you said, “It didn’t always need to be the case that we”—that is “we”, Barclays—“appeared as high as we had recently”? What did you mean by that?

**Paul Tucker:** This is not about LIBOR submissions. This is about the conduct of their treasury desk or money-market desk, I don’t know what they call it, in the money markets apparently paying higher rates of interest, which I think you can see corroborated to a degree in the note that Jeremy Heywood sent to me. If you permit me to go back, one of the things that we had seen through this crisis is that money-market desks, treasury desks, can send up distress flares. In 2007 Northern Rock quite quickly was bidding the highest rate of interest to borrow pretty well every maturity and pretty well every currency. I am sure it

was not every currency and every maturity, but lots of maturities and lots of currencies, and that brought forward its problems. One of the great problems in markets in these conditions—and this lasted for 18 months plus—is that there are moments at which everybody knows what you look like and what they are thinking about you other than you, other than the bank concerned.

We had this in a degree during the autumn of 2007. During the autumn of 2007 I called the treasurer of a UK mortgage bank, not a LIBOR panel bank, and said, “We are starting to hear chatter that you are bidding up, you are prepared to pay more for funds, you are offering more for funds in the market. Be careful, because it may bring about exactly the opposite of what you desire.” That kind of thing was in my mind when I spoke to Bob Diamond, and the whole point of speaking to someone senior is that things are so fragile that—and I am sure I didn’t use precisely these words—“Be careful, the bridge of your company is moving from the CEO desk, the head of the wholesale bank, to the money market, to the treasury desk”.

**Q346 Mr McFadden:** My final question is, if what you are telling us today is that this was a call that was one of concern at the rates at which Barclays were borrowing, because it might signal a weakness in the bank, what did you think when you saw almost every front page of every newspaper last Wednesday saying, “It was the Bank of England who told us, Barclays, to do this”?

**Paul Tucker:** I thought I needed to come and ask to see your Committee to talk about what is going on. During this period the question is that Barclays was the next in line. HSBC and Abbey National Santander were seen at that point to be relatively safe, in the context of the world falling apart. Two banks had been taken under the explicit wing of the Government. That left Barclays. During that period, in the measure of credit risk indicated by the credit default swap market, Barclays was top. The way this crisis unrolled in more or less every financial centre was, as one domino went, “Who might the next one be?” We were not in the position of thinking Barclays is doomed. Had we thought that we, the Bank, would have given very strong advice to the Government that it was not safe for Barclays not to take capital from the Government, but it was a hard call and there was anxiety.

**Q347 Chair:** I want to take you back to some answers you gave to questions I asked a moment ago. Just for the avoidance of doubt, can you confirm that there has been no internal process of review of any type of these events in the Bank prior to the creation of these three inquiries?

**Paul Tucker:** No. There was preparation for the inquiries.

**Q348 Chair:** Prior to the establishment of those inquiries nothing whatever had been done? Nobody had come round to ask you any questions?

**Paul Tucker:** That is right.

**Q349 Chair:** Nothing whatsoever?

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*Paul Tucker:* Preparation for the inquiries.

**Q350 Chair:** Following up on a question from Pat McFadden as to what you thought when you saw those headlines, it didn't cross your mind that Barclays were dumping on the Bank of England?

*Paul Tucker:* Last week's headlines were the week after the release of the conclusions of the three inquiries. The three inquiries concluded—the US Department of Justice—that there was no instruction; no instruction was understood to have been given.

**Q351 Michael Fallon:** Again, I remind the Committee of my registered interest as a non-executive director of Tullett Prebon. If you had calls from No. 10, No. 11 and the Cabinet Office, it would not be unfair to say, therefore, that the Government generally was concerned about LIBOR pricing?

*Paul Tucker:* I didn't think that this was some ministerial thing going on in the background. The world is falling apart, officials in prominent places have a responsibility to ensure that they, as best as they can, are up to speed with what is going on—and by the way, in these circumstances it is an impossible task for anybody to know what is going on. I don't doubt that other people may have been as well, but I was the markets director of the Bank of England. My job was to know what was going on as best as we could.

**Q352 Michael Fallon:** Did you assume the Government was concerned about LIBOR pricing?

*Paul Tucker:* I assumed that they wanted to know about what was going on.

**Q353 Michael Fallon:** In the second line of the Diamond memo, he reports that you had said that there were questions as to why Barclays was always towards the top end of LIBOR pricing. Does that not imply that you wanted to get it lower, or that officials or Ministers wanted to get it lower?

*Paul Tucker:* No, I don't think it does at all, actually. I am not here to defend Mr Diamond's record.

**Q354 Michael Fallon:** So is this note wrong, then?

*Paul Tucker:* No. You can go on to say you have to pay what you have to pay. In other words, you have to pay up in the market. Perhaps I should back up a bit, because what is important from quite early in the crisis, from the summer of 2007 onwards, is that LIBOR became increasingly used as a summary statistic of what was going on in the market. I think there are two reasons. First of all, LIBOR diverged from the safe rate of interest in a material way for the first time in living memory. Secondly, we became aware as the weeks and months passed that less money market activity was going via the brokers, more was being done bilaterally. Those are circumstances where everybody has less information about what is going on, and in those circumstances you place greater weight on the indicator that is available every day, which was LIBOR. I think everybody rather slipped into the habit of using LIBOR as a kind of portmanteau term for money market conditions, bank funding conditions, actual

submissions, the actual LIBOR fix, and actually I think that is going on today.

**Q355 Michael Fallon:** Given that Mr Diamond thinks he was being asked by you why Barclays were always towards the top end of the LIBOR pricing, was it unreasonable of Mr Diamond and his lieutenants to interpret that as some kind of wish that somehow Government would like to see his submissions lower?

*Paul Tucker:* Yes, I think it was. As I understand it, he didn't interpret it that way.

**Q356 Michael Fallon:** Was it unreasonable of him to interpret it that way?

*Paul Tucker:* Absolutely. We would not suggest anybody did anything wrong. There is a crisis going on, we are phoning up saying—

**Q357 Michael Fallon:** You have said that, but, Mr Tucker, we do have two rather odd things happening here. We have Mr Diamond misinterpreting your phone call, which you made to him, and then we have Mr del Missier immediately misinterpreting Mr Diamond. You do see there is a mystery here as to how there should be these two misunderstandings between three very intelligent people right at the edge of these markets.

*Paul Tucker:* I don't think that Bob Diamond did misinterpret. I understand his evidence is that he did not understand the instruction to be given. I was plainly talking about their money market activity, and the reason for mentioning Whitehall was that everybody is now talking about this; the market must be talking to Whitehall about it.

**Q358 Michael Fallon:** Let us just be clear once more. You rang him. What did you want him to do?

*Paul Tucker:* As I have said already, I think, in part of my answer to Mr McFadden, I wanted him to be sure that the senior management of Barclays was overseeing the day-to-day money-market operations and treasury operations and funding operations of Barclays so that Barclays' money desk did not inadvertently send distress signals. In actual paying up for money in terms of what you borrow, you do not need to be at the top of the market all of the time. It is very important not to come across as desperate. That is not a point about LIBOR submissions, where people should just obey the rules.

**Q359 Michael Fallon:** But doesn't the danger of that call being misinterpreted, either by Mr Diamond or its file note being misinterpreted later by Mr del Missier, lie in the fact that you and other participants in the Money Markets Liaison Group were already aware at least a year earlier that there was suspicion on behalf of some of the participants that rates were not being reported accurately?

*Paul Tucker:* First of all, it was not remotely in my mind during this conversation that I could be misinterpreted, either by Bob Diamond or by anybody else. If you go back to the MMLG discussion, I think the prevailing view, as it came across to me in the meeting in November 2007, was, this market is not working. It is sporadically illiquid and dysfunctional,

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which is not the same as saying it is illiquid and dysfunctional all of the time. People are having to make judgements about where they would be able to borrow in the market. That is a much less secure basis on which to proceed with LIBOR. That is one of the reasons why when we got to the spring we encouraged the BBA review and certain elements of the BBA review.

**Q360 Michael Fallon:** Don't you accept that it would be easier to brush aside these misunderstandings if you had not yourself already been aware a year earlier that some participants were registering concern that submissions were being falsified?

**Paul Tucker:** No, we were not aware of allegations of dishonesty. I was not aware of that. I think that what was being said we had understood to mean these money markets are not working. They are dysfunctional. This is a much less sound foundation for determining LIBOR. It is a major piece of global infrastructure. That is not good; that is bad. That increased, as we will probably come to, in the spring of 2008, particularly around the dollar LIBOR fixing.

**Michael Fallon:** I think some of my colleagues may well be pursuing that.

**Q361 Mr Ruffley:** Mr Tucker, can I just direct you to the sentence in the first paragraph of the Diamond note dated 29 October, when he says, "I asked if he—that is you—could relay the reality that not all banks were providing quotes at the levels that represented real transactions. His response: 'Oh, that would be worse'". I think we have already established that this text is a masterclass in ambiguity on Mr Diamond's part, but could you perhaps just start by confirming that you used those words, "Oh, that would be worse"?

**Paul Tucker:** I can't remember that I used those words, but I—

**Q362 Mr Ruffley:** Or words similar to them?

**Paul Tucker:** This goes back to something I said to Mr McFadden, I think. Banks are having to make judgments about where they could borrow in the market, if they are not actually borrowing in the market. If they were not doing real transactions, then Bob Diamond was effectively saying, "Look, when they come to do real transactions they are going to be paying the same as us," and that would have meant that the package was not having the effect that was desired. It would have been worse. It would have been pretty terrible, frankly.

**Q363 Mr Ruffley:** I understand that, but he was quite clearly suggesting to you that in relation to LIBOR pricing—because the earlier part of the paragraph makes it clear he is talking about LIBOR submissions—

**Paul Tucker:** Yes.

**Mr Ruffley:** Absolutely, we are agreeing on this. But he is putting you on notice that not all banks were providing quotes at the levels that represented real transactions. My question to you is: what did you make of that when he said that to you in this

conversation? This is rather important, isn't it? He was clearly telling you, according to his note of the conversation, that other banks, not Barclays, were not all providing quotes or LIBOR submissions at the levels that represented real transactions. My question to you is, first of all, did he say that to you and, secondly, what was your response?

**Paul Tucker:** Certainly a bell didn't go off, "My goodness, there is dishonesty here."

**Q364 Mr Ruffley:** Did Mr Diamond say that?

**Paul Tucker:** I understood him to say, "We are basing ours on real transactions; the other guys aren't doing that." Maybe that's because—this is now me—they don't have to borrow. I don't think HSBC had to borrow during that period, for example. In which case, the suggestion is that when they come to do real transactions they will find they are paying a higher rate than they are judging they would need to pay, and that would be worse, because that would mean that the package wasn't working.

**Q365 Mr Ruffley:** I understand that, but just to finally nail this down, when he said that not all banks were providing quotes at the levels that represented real transactions, you did not think there was anything untoward about that and you did not want to do anything about that?

**Paul Tucker:** A bell did not go off in my head. I was focused entirely during this period on, "Is the package working? Is the world going to fall to pieces nevertheless? Have things improved at all?"

**Q366 Mr Ruffley:** Mr Diamond says that he asked you to relay the reality that this was happening. To whom did you relay the reality, as Mr Diamond would describe it?

**Paul Tucker:** I am not sure. Possibly in the following days, in the conversations with colleagues and officials, but I think within less than two days Barclays announced that they had raised equity from Qatar and interest in Barclays more or less evaporated.

**Q367 Mr Ruffley:** In his evidence to us, Mr Diamond said, "It was clear that a number of the firms who were posting had emergency loans or had been nationalised or were having trouble funding, and yet we were posting the highest level then. As I said to Paul, we are funding at those levels but we would question whether some of the other institutions can actually get funds at the levels they are posting." This is what he said he told you. Were you at any stage responding to those alarm bells?

**Paul Tucker:** Well, if you think about those firms, two of them had taken not only liquidity assistance from us but capital from the Government, and so they had become lower risk. I don't think I would have been at all surprised in the short run that they were able to borrow more cheaply than Barclays. I talked about Barclays being next in line. They were out of the line. Indeed, to this day I remain puzzled and concerned that, as time moved on the semi-nationalised banks ended up paying more in the market than other banks, but that was not the case at this point, and I was not surprised by that. What is more, because we were

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lending them a lot of money they did not need to go into the market and borrow at all. It is not surprising then if they did not have real transactions.

**Q368 Mr Ruffley:** I agree with that, and I think that is a logical explanation, what you have just said.

**Paul Tucker:** The other two, HSBC and Abbey Santander—and at that point the spectre of the euro area’s problems had not emerged—were perceived at the time as, how should I put it, rock-solid by the standards of the moment.

**Q369 Mr Ruffley:** On 30 October—this is after this disputed conversation—Mr Diamond forwarded you a note by Andrew Jones, and it is in the bundle that the Bank sent today. It outlined a recent set of transactions under the Government’s guarantee scheme. Had you discussed this in your 29 October conversation?

**Paul Tucker:** I had mailed him earlier than that to say, “You have used the CGS. You have paid 140 basis points over gilts. That is a lot.” That is on 25 October. I can’t remember whether we touched on it in the conversation on the 29<sup>th</sup>, but it was certainly part of the background to what I am describing. Here is a bank that, even when it goes out and borrows with a Government guarantee, is paying 140 basis points over gilts. That struck me as quite a lot.

**Q370 Mr Ruffley:** In that 30 October email, I wonder if you could tell us what you made of it. It is the email from Bob Diamond to you, copied to Mr Jones, and he says, “Paul, I asked Andrew Jones to give you some perspective. Quite a positive development actually that you and the Government should feel pretty good about.”

**Paul Tucker:** Well, I kind of took note. They had distributed it. There are some redactions here to delete the names of people that had put in big orders. But I didn’t feel wowed that this scheme was going to mean that banks had to pay a percentage and a half over currency. One might say, “Well, hold on, there is a liquidity issue here,” but as I recall, the CGS pieces of paper were eligible in our operation, so they could be converted into liquidity quite easily, and even in the market not every piece of paper needs to be super-liquid. This had a Government guarantee behind it. What I think it was, was a product of two things: just how incredibly traumatised the market was, so the market was not prepared to diverge very much at all from what it thought was safe-safe, and maybe there was a kind of Barclays element in it there as well, as the next in line.

**Q371 Chair:** Just to come back to this sentence in the file note, “Not all banks were providing quotes at the levels that represented real transactions.” You have just told us that did not set alarm bells going off, but this was usually the key indicator used to assess financial stability, wasn’t it? Why didn’t alarm bells go off?

**Paul Tucker:** Because markets had dried up, not completely, as I have already made clear, but for months there had been periods where sometimes it was based on judgments as to where they would be able to borrow rather than actual transactions of where

they were borrowing, and then things would loosen up again and there would be some transactions.

**Q372 Chair:** So you already knew this? He was telling you something you already knew?

**Paul Tucker:** No, but it would be tremendously important if they were making the wrong judgments about where they would be able to borrow if they were conducting real transactions.

**Q373 Chair:** I have understood that. That is the point you made earlier, but my point is, did you already know that not all the banks were providing quotes that—

**Paul Tucker:** Not at that particular moment, no. We were not following—

**Chair:** But generally?

**Paul Tucker:** We knew that it could happen from time to time, yes.

**Chair:** So you did know that it was happening?

**Paul Tucker:** In general. That was the backdrop to the BBA review earlier in the year.

**Q374 Chair:** So why was he so anxious to convey this reality to you?

**Paul Tucker:** I don’t know.

**Q375 Chair:** Despite the fact you were having all these frequent conversations, you seemed to be at cross-purposes on that point as well.

**Paul Tucker:** This wasn’t a call for me to get to the bottom of something. It wasn’t a call about analysing what is going on in the market. That was not the purpose of the call. The purpose of the call was, “People in the market are talking about you. They are talking to everybody about you, including people in Whitehall. There is concern about you. Just make sure that the day-to-day funding operations of your bank don’t tip you over the cliff.”

**Chair:** You have made that point, yes.

**Q376 Andrea Leadsom:** Mr Tucker, I find your evidence so far quite contradictory. In particular, I would like to draw your attention to the BIS March 2008 report where they say, “Well-established benchmarks are critical to the efficient functioning of markets in these instruments. Benchmarks anchor the short end of the yield curve, thereby conveying information about expected future policy rates.” Do you agree with that?

**Paul Tucker:** The key measure of expected future policy rates throughout this whole period was the overnight index swap market based on SONIA, which is a measure of the average rate of interest on actual transactions in the cash unsecured overnight market.

**Q377 Andrea Leadsom:** Are you saying that LIBOR was less important?

**Paul Tucker:** As a measure of future policy expectations for the UK, or the MPC for others, LIBOR was not that important. It was not what we follow to try to gauge expectations of the path of our policy rate.

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**Q378 Andrea Leadsom:** So in effect the interbank rate, because it was not working, had become less relevant to the Bank of England's understanding of the state of play of the markets? That contradicts a lot of the evidence that we have heard so far.

**Paul Tucker:** No, it became a measure of something else. The LIBOR, which is a measure of the rate of interest at which banks would be able to fund themselves, will reflect three components. The first component at any particular maturity is what you think the Bank of England's policy rate will be over that time horizon. The second is—and I am talking about LIBOR as a whole now—what do funders think is the average credit risk and the compensation they should get for that credit risk in the LIBOR panel? The third component would be, whatever they think of the credit risk, does nobody want to lend because they want to hoard liquidity? I think you can see this in our quarterly bulletin from the middle of 2007 onwards. We looked at the wedge, the spread between LIBOR rates and the OIS rate, the measure of expectations of our policy, as a composite indicator of bank credit risk and liquidity risk. Then we looked at credit default swap spreads as an indicator of credit risk and tried to break it down.

**Q379 Andrea Leadsom:** Mr Tucker, that is very interesting—other colleagues might come on to that—but I am very keen to talk about the bank's actual procedures. You are saying on the one hand that LIBOR reflects the availability of cash, the presumed activity of the central Bank and the credit risk of the opposition, of the person you are lending to. That surely does make it absolutely a key anchor in the short term yield curve, does it not? In fact, the Governor himself said he thought that the LIBOR fixing should reflect the actual interbank borrowing rate as opposed to just some guess because the market is not functioning. Would you agree with that? Is that a yes or a no?

**Paul Tucker:** As you have just put it, yes, but it is not a measure of expectations of monetary policy. It is relevant credit conditions and an indicator of liquidity conditions, and we would much—

**Andrea Leadsom:** But it should be actual rates.

**Paul Tucker:** I am sorry. We would much prefer it to be based on actual transactions.

**Q380 Andrea Leadsom:** But you don't require it to be based on actual transactions?

**Paul Tucker:** We don't require anything; we are not responsible for LIBOR in that sense. In the BBA review in 2008, apart from inputting some thoughts on governance and process, we made it clear to the BBA that we would not endorse LIBOR, precisely because we wanted to keep open the possibility of moving to other measures, including a transaction-based measure, when things had calmed down.

**Q381 Andrea Leadsom:** Let's go back to your procedures, then. Can you confirm that you are personally responsible for the effectiveness of LIBOR in the marketplace at the Bank of England? You are saying the BBA is responsible for recording it, but at

the Bank of England are you the person who is responsible for that?

**Paul Tucker:** We didn't see ourselves as being responsible for its effectiveness whatsoever. We used it as an indicator of the things that I have described. We didn't take any responsibility for LIBOR.

**Andrea Leadsom:** For LIBOR in the sense of its accuracy.

**Paul Tucker:** We were not a regulatory body.

**Q382 Andrea Leadsom:** Do you have a procedures manual at the Bank?

**Paul Tucker:** Yes.

**Q383 Andrea Leadsom:** Would you have a procedure for all contacts with banks in the marketplace? If you have a contact from a bank about a particular issue is there a procedure that tells you how you should deal with that contact from that bank?

**Paul Tucker:** People write up their calls, as far as they can. As I have said already to the Chairman, that wasn't—

**Q384 Andrea Leadsom:** Is it on a best-efforts basis or is it actually a procedure?

**Paul Tucker:** That wasn't—well, during the crisis, yes.

**Q385 Andrea Leadsom:** So the procedure is there but it is not always followed?

**Paul Tucker:** It could not be. It was impossible to do what you describe. There is not a rule that people must write notes of everything, and there is not a policy that they must write notes.

**Q386 Andrea Leadsom:** Sorry, Mr Tucker, is there a procedure that if you have contact with a bank in the marketplace as a Bank of England official you write up a note about the call?

**Paul Tucker:** It is a policy that you should if it is interesting and material.

**Q387 Andrea Leadsom:** Is that what the procedure says?

**Paul Tucker:** That is what our policy says, yes.

**Q388 Andrea Leadsom:** How often are the procedures reviewed?

**Paul Tucker:** Those procedures—well, that policy is ancient: write notes for record of important conversations. That didn't happen during this period. There were too many conversations; there were too many things going on. The system was creaking.

**Q389 Andrea Leadsom:** What is your whistle-blower policy? If somebody from the interbank market calls you and says, "I think someone is manipulating LIBOR," either with criminal intent or with intent to mark down their cost of funds, what is the procedure for dealing with that?

**Paul Tucker:** I don't have it in my mind now. We do have a whistle-blower policy. We do review it periodically.



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**Q390 Andrea Leadsom:** Would you have followed the whistle-blower policy in the case of Bob Diamond's call to you saying he thinks other banks are manipulating LIBOR?

**Paul Tucker:** I didn't understand Bob Diamond's conversation to be a whistle-blower conversation at all. He didn't say to me, "Look, Paul, I'm trying to tell you something absolutely terrible here."

**Q391 Andrea Leadsom:** No, but he is telling you that the LIBOR submissions from other banks are not the rates at which they can borrow in the interbank market, and the rule around the submissions is that they should be the rate at which you borrow, not the rate you feel like submitting.

**Paul Tucker:** No, what he records himself as saying is that the submissions were not based on real transactions. That is different from what you have just said. As I have said to the Chairman, there were periods from the middle of 2007 onwards where the markets were sufficiently illiquid and dysfunctional that there weren't real transactions, and then they would emerge again. During this period, I think in response to Mr Ruffley I have given reasons why maybe some of the other sterling banks were not doing real transactions. I certainly did not understand this conversation in any way as Mr Diamond telling me about dishonesty or cheating. I did not. As I have said, I did think, "Well, if he is saying that the market is here when they think it is there, and they are going to discover it is here when they go back into the market," then, as I said to Mr McFadden, the package is working even less than we were fearing.

**Q392 Andrea Leadsom:** Are you saying then that in the Bank of England's procedures there is a margin to allow for false submissions of LIBOR when the market is in crisis?

**Paul Tucker:** No, we do not have a manual on the processes for LIBOR submissions. We are not part of the LIBOR panel. We do not oversee the BBA. We were not a regulatory authority.

**Q393 Andrea Leadsom:** But the Governor of the Bank of England has said that he thinks that LIBOR submissions should be transaction-based. What efforts did the Bank of England make during that period to ensure that banks knew that the Bank of England believed that LIBOR submissions should reflect actual rates and not invented rates?

**Paul Tucker:** If they could reflect actual rates—if there were no real transactions they had to make judgements. I think the key period here is the BBA's review from the spring of 2008. There is an annual review of some kind. We emphasised to the BBA that this review was tremendously important because of the eroding credibility of LIBOR. I phoned round senior members of banks and said, "This is not a review that should be conducted by the junior people that normally sit on the relevant BBA committee. It should be conducted by senior people in the banks. That is the message that I am giving to all of the major sterling clearers". We encouraged the BBA to not just consult the banking industry, the interbank market, but also users of the market and, as the first round of the

preliminary conclusions, the conclusions that were consulted upon by the BBA and were being drawn up, the BBA spoke to us about them. They were setting up a new group to oversee LIBOR, and I said, include asset managers and users of the market.

**Q394 Andrea Leadsom:** Yes, I think other colleagues will come on to that. Can I just finish up with two questions? Are you aware of LIBOR having been manipulated since 2008 by any bank submitters?

**Paul Tucker:** No.

**Q395 Andrea Leadsom:** You are not aware of it, or it has not happened?

**Paul Tucker:** We are not aware of it, other than what is starting to come out of these investigations.

**Q396 Andrea Leadsom:** So if LIBOR had been manipulated since 2008, would the Bank of England take any responsibility for failing to deal with its knowledge that LIBOR had been falsified, or would it see that as somebody else's responsibility?

**Paul Tucker:** We did not have any knowledge. I did not have any knowledge of this. I have said—

**Q397 Andrea Leadsom:** But you do now. I am saying you did since 2008?

**Paul Tucker:** We have since 2008, since the investigations.

**Q398 Andrea Leadsom:** So only since a month ago was the Bank of England aware that LIBOR had been falsified?

**Paul Tucker:** That this was a cesspit, yes.

**Q399 Andrea Leadsom:** Final question. Are you concerned about any other fixings in the interbank markets that may have been manipulated, either for reasons of the financial crisis or for profit?

**Paul Tucker:** I think that we think that, as part of the review that the Government has commissioned from Martin Wheatley, as well as looking at LIBOR, they should look at every single index that is not based on real transactions, where participants in the market have to self-certify. That plainly does not work. Even if these other markets have been completely clean—and we have no information on that one way or the other—over that period, as self-certification is plainly open to abuse and so it could occur elsewhere. Yes.

**Q400 Chair:** Have you made that clear to Mr Wheatley?

**Paul Tucker:** I think the Governor made that fairly clear in the press conference last week. I don't think we have seen Mr Wheatley since the review from him was commissioned.

**Q401 Stewart Hosie:** Mr Tucker, can I take you back to the week after the telephone conversation with Mr Diamond.

**Paul Tucker:** The week after?

**Stewart Hosie:** The week after, yes. On 6 November there was a cut in the base rate of 1.5%. You will recall that the banks did not immediately pass that rate cut on, particularly to people with mortgages, and that

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led to an emergency breakfast meeting on 7 November, where the Chancellor was reported to have read the riot act, furious that the banks had not passed the base rate cut on to consumers. They explained, and I am sure you will be familiar with this, that because the base rate was so low but LIBORs were still so high, it would have led to a reduction in margins and a loss both to the banks and potentially to the taxpayer. Then on the 7th, lo and behold, the three-month LIBOR fell by 1.07%. I understand it was the biggest single daily fall since 1992. How did that happen? Can you explain, given all the circumstances and the difficulties of the time, how the LIBOR rate fell to that extent that day and again the following day?

**Paul Tucker:** Sorry, I haven't refreshed my memory of those particular days. What I would say is two things. First of all, it is many, many years, decades, since the Bank of England has tried to enforce the passing on of our bank rate cuts or rises. You set monetary policy, credit spreads and other things move around. You then have to take that into account. I say that for the following reason, that during the course of the back end of 2008, the beginning of 2009, as we were taking the bank rate down to near zero, part of what we were trying to do was offset the effects of tightening credit conditions. The steps that the authorities took that we thought could help to bring down LIBOR, or the LIBOR spread, between LIBOR and the risk free rate, were the Credit Guarantee Scheme and the extension of the Special Liquidity Scheme and the capitalisation of the banks. The first two mean banks should need to borrow less in the unsecured market, less demand pressure, and the third, capitalisation of the banks, the Government standing behind the banks, should have made them less risky, so that people when they loan to them were less frightened and would charge less of a premium. I believe that those were, and have remained, the dominant influences on bank funding costs.

**Q402 Stewart Hosie:** Indeed, and those things were in place—they were all very important—but the LIBORs and the spread had barely moved. The question I am asking is about where you had this emergency meeting where the Chancellor reads the riot act, but there was no improvement in terms of those schemes, the banks had been kicking back against passing on the base rates, and then all of a sudden the LIBOR rate fell. That was against the backdrop of banks not being able to borrow, certainly not at the submitted rates, against the backdrop of an IMF report that was extremely gloomy indeed, also published on the 6th. Why did the LIBOR rates fall a near-record amount on a single day?

**Paul Tucker:** I don't know. I haven't refreshed my memory of those days. I need to—

**Q403 Stewart Hosie:** You said earlier that there would be no pressure put by the central Bank on the banks to make lower than otherwise expected submissions. At the time when the Government were desperate to see the base rate cut passed on, did the central Bank make representations to the banks for

them to make lower submissions to the LIBORs at that point?

**Paul Tucker:** I am absolutely certain not.

**Q404 Stewart Hosie:** That is helpful. Do you believe the banks themselves could collectively have determined that LIBOR submissions needed to be lower to shrink that spread in order to be able to pass on the base rate cut?

**Paul Tucker:** I have no evidence one way or the other. Such collusion would never have occurred to me until the episodes of the revelations of the last few weeks.

**Q405 Stewart Hosie:** You have no evidence that they would have collectively come to that decision?

**Paul Tucker:** No, no. If I can go back to the questions, I think, from Mr Ruffley and Ms Leadsom, these banks were in very different circumstances. You have two in the state sector and overstating the Lloyds HBOS bid, one a massive Asian-oriented bank that is regarded as rock-solid, if anything is having safe-haven flows to it. Abbey Santander still then in much the same position, and Barclays. This wasn't a homogeneous group.

**Q406 Stewart Hosie:** No, I am simply trying to get to the bottom of how this happened.

**Paul Tucker:** I understand.

**Stewart Hosie:** Can I then take you to a few days later, 11 November? This is in the *Telegraph*. It is a short paragraph so I will read it all. "Interest rate cuts, banks being told to fall into line and lower their mortgage rates. Good stuff from the Treasury. After all, with the base rate falling and Libor following it... money should get cheaper for all of us. Shame Alistair Darling had to call all the banks into his office for a breakfast barracking to get it done." Were you aware that the Treasury at this breakfast barracking had instructed the LIBORs to be lower, the spread to be narrower, in order for the base rate cuts to be passed on?

**Paul Tucker:** I have no recollection of that or of anything like that.

**Q407 Stewart Hosie:** Okay. I am just slightly perplexed—and please forgive me—that we have a near-record one-day fall in the three-month rate, that the banks collectively couldn't have done this, the central Bank didn't instruct, the Treasury didn't instruct, but there is lots of gossip and chatter and emails about how important the LIBOR rate is. Indeed, you said yourself that LIBOR was used as a summary statistic as to what was going on in the market.

**Paul Tucker:** Then, as you probably know, the spread started to rise again back towards Christmas. The repair in financial markets was slow. A number of times during this period—I can't tell you exactly when—I was asked by colleagues, "Why isn't all this repairing itself faster? Why aren't things having a quicker effect?" and the answer I gave is, "The market is traumatised. It is as though everybody has been in a motorway pile-up and they have just escaped, and they have pulled over on to the hard shoulder and they

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are kind of holding their head in their hands, and this will take time,” and it kind of did.

**Q408 Stewart Hosie:** Mr Tucker, the argument there would appear to be that a record one-day fall, after a breakfast barracking with the Chancellor, at a time when the banking establishment, quite rightly, wanted LIBORs to be lower, was the consequence of a traumatised market, and nothing else.

**Paul Tucker:** I see that—I see the question. I haven’t refreshed my memory of this period.

**Stewart Hosie:** Okay. I would be grateful if you could look at the period of 6 to 11 November, from the base rate cut and its aftermath, in relation to what may or may not have been said about LIBOR, because I think it is extremely important indeed. Thank you.

**Q409 Teresa Pearce:** The note that Bob Diamond wrote, when was the first you saw that?

**Paul Tucker:** I can’t remember exactly—as part of the process around the three inquiries of the FSA, CFTC and Department of Justice.

**Q410 Teresa Pearce:** Did you at the time go back to Mr Diamond and dispute any of the note?

**Paul Tucker:** No. I have never spoken to Mr Diamond about this note.

**Q411 Teresa Pearce:** Mr Diamond, as you know, was before us last week, and in his evidence he said about you, that, “He was trying to tell me there were a number of Ministers in Whitehall who were worried that we were not able to fund,” and it seemed to me that he was saying that you were trying to give him a nod and a wink. He also said to us that he took from the conversation that you were saying, “My goodness, if Barclays can’t fund we might need to nationalise them.” Was that your intention?

**Paul Tucker:** I certainly didn’t mention Ministers, and I know that I didn’t, because I wouldn’t. It was—

**Q412 Teresa Pearce:** But were you meaning to convey the possible threat of nationalisation?

**Paul Tucker:** No. No, I wasn’t. I think I did mean to convey, as I have said, “You are now being talked about everywhere. There is anxiety about this. There is anxiety about whether you are okay, whether you are going to have to pay up.” This is me trying to make sense of it rather than recollecting. Well, the first bit I absolutely recollect: Barclays had been very clear they did not want to take capital from the Government and that they did not need to take capital from the Government. They put out an announcement, as I said earlier on, I think on the 13th—the day that the RBS and HBOS nationalisations were announced—listing quite a series of actions that they were going to take. I also said, and this is also recollection, a clear recollection, that there was nervousness in the Bank and I think among officials about, “How firmly based is that decision? Have we done the right thing?” Then, the bit that I am trying to make sense of, and it is not recollection: in those circumstances my phoning up and saying, “Everyone is pretty worried about you because everyone is talking about you and the rates that you are having to

pay in the market.” It is not for me to say, but I suppose that could have played into their concerns about escaping nationalisation. But the first two bits are clear recollections.

**Q413 Teresa Pearce:** Thank you. In the press last week it is reported that Mr Diamond partly resigned because of an unambiguous message from the Bank. Did the Bank of England convey that message to the board?

**Paul Tucker:** I think this is something that you ought to raise with the Governor when we come back next week, rather than me. I was not personally involved in the discussions, which—

**Q414 Chair:** But you were aware there were discussions taking place?

**Paul Tucker:** I was aware, I wasn’t deeply aware. I was aware there was great concern among all of us. You could see at the press conference for the financial stability report last Friday, or the Friday before, that there was great concern that trust has to be re-established in banking. This is now different from and extra to the whole safety and soundness, systemic stability and resilience—massively important though that is. This is now, “Can we actually trust the honesty of core wholesale markets? That has to be addressed fast.” If I can put it like this, I would have wanted the regulators and the Bank to make clear to the Barclays board that, as the institution that was in the spotlight and found responsible for terrible practice, they needed to take decisive action to start the process of cleaning this up.

**Q415 Teresa Pearce:** Are you saying that is a question we should make to the Governor and not to you? Did the Governor take soundings from the Court, including you?

**Paul Tucker:** We talked about our response—not about the particular thing but about the more general response. Yes, we talked about it in preparing for the Financial Stability Report press conference.

**Q416 Teresa Pearce:** Do you think that Mr Diamond did the right thing in resigning?

**Paul Tucker:** I think the events of the past two weeks, or however long it is, show that absolutely decisive action was needed to start a new chapter.

**Q417 Teresa Pearce:** Does that reflect a long-standing concern?

**Paul Tucker:** No. What has been revealed has come as a deep shock, a deep shock.

**Q418 Chair:** Despite the fact that review of LIBOR has been going on for some time?

**Paul Tucker:** Well, we didn’t know what it would find. You are right to pick me up on that, because there are two periods. There is the period before we knew/I knew that any inquiries were going on—relative to that, an absolutely massive shock. Since we knew about the inquiries, we knew that there were suspicions, but we did not know what the inquiries were going to show, and there are inquiries still under way and we don’t know what they are going to show.

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**Q419 Mr Love:** Mr Tucker, can I go back to that conversation and the note that Mr Diamond gave. You told us today that your primary memory of this is that you were clearly concerned about whether the package was working or not—you were concerned about Barclays' ability to finance itself at this particular point in time—but with the onus on Mr Diamond, and certainly the evidence he gave last week, he stressed the continuing discussions about LIBOR rates. Can you just confirm how much the discussion was on LIBOR; whether he is correct and it was a major part, or whether it was really a subsidiary issue?

**Paul Tucker:** Well, no, LIBOR is used as a summary statistic. If I go back to one of my earlier answers, in conditions where less activity was going through the brokers and more is being done bilaterally between borrowers and lenders, and there is just less activity, we were more reliant on LIBOR as an indicator of what was going on. We used it as an indicator of what was going on and we thought that it was a reasonable indicator of what was going on. It went up a lot after Northern Rock. It then came down a bit. It went up a lot at the end of 2007. It came down a bit during the spring of 2008, when things deteriorated here. It started to drift up again, almost considerably above the price of borrowing in dollars or euros, and then after Lehman it absolutely shot up. What is more, the dispersion of submissions widened and the ranking of them seemed broadly to make sense relative to perceptions of credit risk. We did not do scientific tests of that. I am being long-winded, and I apologise.

**Mr Love:** No.

**Paul Tucker:** We were using it when there was not more concrete information about. I think we all used it and referred to it as a reasonably reliable summary statistic, and I don't doubt that I did that when I talked to Bob Diamond.

**Q420 Mr Love:** But your recollection is you did that in the context of Barclays' difficulties in funding itself—

**Paul Tucker:** Potential difficulties.

**Mr Love:** —potential difficulties, rather than his submission to us, which was that, “There are a lot of banks out there doing this and we want to highlight this to you. We are the honest brokers”?

**Paul Tucker:** Yes. Everybody was saying—well, I don't want to overstate it, people were saying, different banks were getting LIBOR wrong, but these were judgments about what they could borrow at in the market.

**Q421 Mr Love:** Mr Diamond said that this was just one of a number of conversations he had had with you specifically on the LIBOR issue. Do you remember any previous conversations with him or with senior officials that would report to him at Barclays?

**Paul Tucker:** No, they had said, without labouring the point, “We are calling it where we see it,” which is what all of the other banks said as well. They never at any point said, “Actually, Paul, we are trying to make a different point to you here. We're making a point about dishonesty. You are not hearing this.” At no point was there anything like that.

**Q422 Mr Love:** In your recollection, when was the first time that LIBOR was raised as an issue in relation to low-balling?

**Paul Tucker:** To—?

**Mr Love:** Low-balling.

**Paul Tucker:** I was not aware of allegations of low-balling until the last few weeks. I have referred a couple of times to the events leading to the BBA review and what happened with dollar LIBOR. People became concerned in the United States in the spring of 2008 about where dollar LIBOR was relative to where dollars could be borrowed in New York, and this did concern people and we heard about it. There was chatter about it. The New York Fed raised it with us, and that was part of the background to our emphasis on why the BBA review of LIBOR governance and processes in the spring and onwards of 2008 was so important.

But can I say two things about this, please? First of all, we used LIBOR as the basis for the fees in the Special Liquidity Scheme in, I think, April 2008. This was our biggest intervention in the crisis in terms of providing liquidity and trying to ease funding conditions. We would not have dreamt of using LIBOR as part of the pricing structure for Bank of England operations had we had doubts about what is now referred to as low-balling or high-balling, or anything else. We thought the underlying markets were dysfunctional, sporadically illiquid, much less reliable than normal, but we did not have suspicions of dishonesty and we thought, as I said just now, the pattern of LIBOR movements made sense.

**Q423 Mr Love:** You will know, from the FSA and other reports, that low-balling was going on, and had been for some considerable period of time before the events that we focused on—almost a year.

**Paul Tucker:** We did not realise.

**Q424 Mr Love:** You mentioned earlier on that during this period of intense activity you had not been able to record any of the conversations. Would that apply to all the period back to when the low-balling started in October or so 2007, and would there be any recordings of conversations that may or may not have been held with Barclays or other banks in relation to LIBOR?

**Paul Tucker:** In terms of our just not doing as many notes to file of conversations, I should think that starts back in the middle of 2007, when things start to get out of control. We need to review what there is, but—

**Q425 Chair:** Sorry, just to be clear. This note taking was okay until Northern Rock, basically, is what you are saying, and then once Northern Rock came along the whole system of note taking collapsed?

**Paul Tucker:** Well, no, it was not a binary thing, because the degrees of pressure went up and down.

**Q426 Chair:** So you will find the odd notes here and there?

**Paul Tucker:** Yes.

**Q427 Chair:** It does sound a bit of a mess.

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**Paul Tucker:** It was a mess, Mr Chairman. The world financial system was progressively falling apart, and then did fall apart, and we had experienced nothing like it.

**Q428 Mr Love:** But this was at a critical time when judgments were being made and conversations being held, and it would have been—

**Paul Tucker:** Yes. During this period, the biggest thing for us in the sterling markets was the preparation of the Special Liquidity Scheme, which took about six weeks, and partly it had been prompted by rumours of HBOS being in trouble, which I think were false, and there was a rise in money market rates in sterling, relative to dollars and euros, which suggested that the pressures were accumulating on UK banks. The SLS was wheeled out and planned and designed to try to underpin funding conditions in UK banks, and we were spending an enormous amount of time on that.

**Q429 Mr Love:** In an earlier reply to Mrs Leadsom, you indicated that the bank does not have any specific responsibility relating to LIBOR, but you do accept—and you have in your answer to my questions accepted—that it is a critically important benchmark. Indeed, you have used it yourself.

**Paul Tucker:** Absolutely.

**Mr Love:** Does that not give the Bank, at the centre of economic activity in the City, a special responsibility to safeguard LIBOR from any attempt to manipulate it?

**Paul Tucker:** We did not see it like that. The job of overseeing manipulation and conduct is for another authority.

**Q430 Mr Love:** I am not suggesting that you should have overseen manipulation. This is about when people are saying to you that there is manipulation, as Mr Diamond claims that he said to you, and there are reports out there that this was said by other banks.

**Paul Tucker:** We were worried about the credibility of LIBOR as a piece of global infrastructure, increasingly through the spring of 2008 and, as I have described, we underlined to the BBA how seriously they had to conduct their review. We underlined to the BBA how seriously banks conduct their review. We underlined to the banks they had to participate at a more senior level. We suggested to the BBA that they had to go beyond the banking community and reach out to the users of this index, and we made it clear that we would not endorse LIBOR and wanted to leave the door open to further reforms. In the circumstances of the time with things falling to pieces and the sheer scale and difficulty of transitioning—

**Mr Love:** I am now being looked at by the Chairman.

**Paul Tucker:** I am sorry.

**Q431 Mr Love:** Let me just ask you one final question. Do you think that that response to the BBA, with all the concerns that were being expressed, was adequate? Should the Bank not have stated more clearly their concern, not about the accusations of manipulation but concerns that the BBA form of LIBOR was not adequate to the task necessary for the modern economy?

**Paul Tucker:** I think that our response and input to the BBA review was very serious and it was adequate. We made a judgment that moving away from the existing method of collating LIBOR, based on judgment, self-certification, away to a transactions-based measure, was just not feasible during a financial crisis.

**Q432 Mark Garnier:** Mr Tucker, I want to be absolutely clear about one thing you said in response to a couple of earlier questions. I think you said that prior to the latter part of 2008 you were not aware of any LIBOR low-balling. That is absolutely your position? For the record, you are nodding.

**Paul Tucker:** Yes.

**Q433 Mark Garnier:** Can I refer you to the Bank of England Sterling Money Markets Liaison Group, in the meeting of 15 November 2007 where the minutes note—and this is a meeting you were at, along with Simon Chatterton who was an alternate from Barclays, and John Ewan who was an alternate from the BBA—that “several group members thought that LIBOR fixings had been lower than actual traded impact rates through the period of stress.” That was on 15 November 2007.

**Paul Tucker:** Yes. First of all, if I may say two things, I was chairing this meeting, I can remember that part of the discussion in broad terms, and I can remember turning to the BBA and saying, “Please address these questions as the body responsible for LIBOR.” During this period—

**Mark Garnier:** But I—

**Paul Tucker:** If I may address the point more directly, as I have already said, less was going through the brokers, more was being done bilaterally, people did not know anything very much about each other’s transactions at all, and so I heard this as, “They don’t know what each other are doing.” It was questioning the judgments that the different parties were making, or that they were relying on bilateral private transactions—I did not read this as cheating. And when John Ewan responded there was not then a great outcry in the room. People did not get in touch afterwards and say, “You’ve missed the point here.”

**Q434 Mark Garnier:** But you would understand why people would think that you have absolutely missed the point. I come back to my first point, which is that you just said to us quite clearly that there was no suspicion that there was low-balling and yet this is a minuted meeting a year beforehand and—

**Paul Tucker:** Yes, and went on our website with lots of trouble there, and—

**Mark Garnier:** I am not suggesting—it is just it is very, very—

**Paul Tucker:** No, the reason I said it went on our website was this was fully transparent to the world. No one was phoning up afterwards saying, “You’ve missed the point. You haven’t got this,” or, “We’ve now seen this on your website. This is signalling something dishonest.” This was a dysfunctional market.

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**Q435 Mark Garnier:** But it is clearly low-balling. This is clearly stating that low-balling was going on.

**Paul Tucker:** I think it may well be, in hindsight, but that was not how we understood it at the time, and if I may—

**Q436 Chair:** So it is another misunderstanding, like all the other stuff in this submission?

**Paul Tucker:** If you go on to the April MMLG, some group members thought that fixing LIBOR rates was complicated by a lack of term liquidity. Yes, it was.

**Q437 Mark Garnier:** I completely appreciate that the markets are illiquid and it is incredibly difficult.

**Paul Tucker:** Yes.

**Mark Garnier:** You then go on to have a sort of discussion with the BBA. The BBA official replied on the concerns about LIBOR, which is clearly a responsible thing. “Dispersion between the panel banks’ submissions had increased in August—and I find this an extraordinary thing to say—but has since fallen back, in part reflecting clarification from the BBA on LIBOR definitions.” That almost suggests that the people submitting LIBOR rates did not actually understand what it was they were doing? For the record, you are nodding your head.

**Paul Tucker:** I don’t know about that. I understood this as, this market isn’t working. In dysfunctional, sporadically illiquid markets banks have concerns about where they are putting their LIBOR submissions, but nobody presented this as dishonest, nobody—

**Q438 Mark Garnier:** I am not suggesting they are doing it dishonestly but clearly, as I read this, it is, if you like, a distress flare or a big red alert signal coming up that there is something fundamentally wrong with this market. The LIBOR rates are not reflecting the true interbank lending rates for the actual trades, and the BBA have actually admitted—obviously minutes are précised versions of the conversation, I understand that—but on reading this it suggests that the BBA are admitting that the contributor banks don’t understand how to fix a LIBOR rate.

**Paul Tucker:** On the first part of that, this was an alert. I don’t think anybody needed an alert that this was a market that was dysfunctional.

**Q439 Mark Garnier:** It was an alert to low-balling.

**Paul Tucker:** I think with hindsight it looks like that. We did not hear it like that. I think it was not unreasonable to understand it in a different way—I really do.

**Q440 Mark Garnier:** I am going to press you on this quite hard, if I may, because clearly people are very, very worried about this. You say that you did not necessarily understand, and we can all look at these things with the benefit of hindsight—I completely accept that, given what subsequently went on and more information to understand what was going on—but those two statements, that LIBOR fixing had been lower than actual traded interbank rates, coupled to the second part, which in part reflects

clarification for the BBA and the LIBOR definition, but implying lack of understanding, together imply to me that there is a fundamental problem with not just the liquidity of the market but the understanding of how LIBOR worked by the contributor banks, coupled with the fact that they are consistently low-balling these rates, for whatever reason. Subsequently, it has been alleged and it has been discovered that it is possible that low-balling was in order to create a false impression about the liquidity of the bank in this case, but nonetheless at this point as the Bank of England and, irrespective of whether you are the regulators or not, surely you must have been extremely worried about the fact that these LIBOR rates were being low-balled?

**Paul Tucker:** On the first part—lower than actual traded interbank rates—as I have said a few times, more activity was being done bilaterally rather than via the brokers, and the banks knew very little about what each other were able to borrow at. This was not something that they could look up on a screen any more or get gossip from the brokers. Each bank knew itself where it was able to borrow or potentially able to borrow. On the definitions, I did not understand that as a bunch of crooks who had been wilfully departing from the definitions. I understood that as, “My goodness, people have had to be taken to the text again and reminded what to do.”

**Q441 Mark Garnier:** Did you feel that that would have been the right time to have a quiet word—officially or unofficially—with the FSA to see if there was anything—

**Paul Tucker:** Well, the FSA were there.

**Q442 Mark Garnier:** Yes. Did you have a conversation with them at the time or afterwards?

**Paul Tucker:** Not that I recall. The FSA were there and in fact the markets part of the FSA was there. I would have had a conversation had I suspected foul play. I didn’t.

**Q443 Mark Garnier:** Was this the first point at which you had ever seen any evidence of low-balling?

**Paul Tucker:** I didn’t see any evidence of low-balling at the time. I didn’t.

**Mark Garnier:** You will see why I find that—

**Paul Tucker:** I understand why you are putting the question to me, but I didn’t. This is—

**Q444 Mark Garnier:** I mean the minutes actually do talk about—they don’t use the word “low-balling” but they—

**Paul Tucker:** They do not talk about low-balling. They say—

**Mark Garnier:** “Several group members thought that LIBOR fixing had been lower than actual traded—”

**Paul Tucker:**—lower than actual traded interbank rates. Traded interbank rates I think of as brokered rates in this market rather than bilateral transactions. I am thinking at this point, “People don’t know what is going on. This market is dysfunctional, sporadically illiquid, a lot of it has disappeared from—well, some chunk of it has disappeared from view.” It did not set alarm bells ringing.

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**Q445 Mark Garnier:** So at that point you thought this was a genuine misunderstanding of what was going on in the market?

**Paul Tucker:** There was great uncertainty about where people thought they could borrow in the market, and there became after Christmas, as we went into the spring, a creeping problem in the credibility of LIBOR and, as I said, that led to the inputs we gave to the BBA review.

**Q446 Mark Garnier:** One of the points is that the BBA officials were responding to concerns about dispersion between panel banks. Clearly dispersion would indicate lack of understanding, but low-balling, if you have your averages now underneath where these actual lending rates are, as opposed to grouping around it, that would indicate some sort of slightly different activity, wouldn't it?

**Paul Tucker:** I don't know. I think people—

**Mark Garnier:** As a risk base, if you are looking for risks in the system, if you see a random clot of LIBOR rates around where it actually is, then that would, to my mind, signify that you have people who do not understand what is going on. If you see those clots of LIBOR rates gravitating towards one side or other of the actual interbank rates, that would tend to suggest to me that something different was going on that needed investigating, and I—

**Paul Tucker:** They can't all gravitate to one side or the other because it is an average and it is a trend average.

**Q447 Mark Garnier:** Correct. That is right. Yet they were; they were gravitating to below the interbank, the actual rates.

**Paul Tucker:** Not where the LIBOR rate itself is. It is an average.

**Q448 Mark Garnier:** But it does say that in the minutes.

**Paul Tucker:** No, no, it says that some people say "actual traded interbank rates". I think that during this period, where you have your rate at 11 o'clock, you might find at 11.30 or 12 o'clock or 1 o'clock that you could borrow at a different rate, higher or lower.

**Mark Garnier:** For sure.

**Paul Tucker:** We were very, very bothered during this period about conditions in the money markets. This is a period quite shortly after this I think, in which we introduced operations to try to tide the money market over the Christmas-new year period because we thought there could be a crunch at that period. We are focused on, "Is this going to take another lurch down in terms of credit tightness?" and I am afraid we are regarding LIBOR as one of the few indicators we have of what is going on, and dishonesty did not occur to us.

**Mark Garnier:** You say dishonesty, but none the less—this is my last question.

**Paul Tucker:** Low-balling would be dishonest.

**Mark Garnier:** Okay.

**Q449 Chair:** Mr Tucker, you were chairman of this meeting and you are responsible for the minutes, and you are telling us now that the minutes are misleading.

**Paul Tucker:** No, I don't think I am.

**Q450 Chair:** It says here, "Several group members thought that LIBOR fixings had been lower than actual traded interbank rates through the period of strain".

**Paul Tucker:** Yes.

**Chair:** That reads as unambiguously low-balling. It reads as unambiguously people submitting returns below what in fact were the traded rates.

**Paul Tucker:** Or that they are doing private transactions that people can't see because it is not in the traded market. The money markets had fundamentally changed, which is why—

**Q451 Chair:** No alarm bells at all rang when this was said to you?

**Paul Tucker:** No, no.

**Q452 Chair:** These group members presumably are banks?

**Paul Tucker:** You can see them on the front. They are not all banks. There are some users as well.

**Q453 Chair:** From recollection, without disclosing who, which you may not want to do, can you tell us what class of institution were these group members?

**Paul Tucker:** I can't remember in detail.

**Q454 Chair:** Although you can remember what happened immediately afterwards, which was that you turned to the BBA?

**Paul Tucker:** Yes.

**Q455 Chair:** You can remember what you did afterwards, but you can't remember who triggered this?

**Paul Tucker:** It says "several", so quite a few people commented. I can't remember exactly who they were.

**Q456 Chair:** This doesn't look good, Mr Tucker. I have to tell you, it doesn't look good that we have, in the minutes on 15 November 2007, what appears to any reasonable person to be a clear indication of low-balling, about which nothing was done.

**Paul Tucker:** Well, we thought it was a malfunctioning market, not a dishonest market.

**Chair:** Okay.

**Q457 John Mann:** There is another word for it, and that is "criminal fraud". That is what that minute refers to. You used an interesting turn of phrase, "we". In each case you use the "we" rather than "I", so you must have discussed that issue with colleagues afterwards?

**Paul Tucker:** There is a team in markets we talk to about everything, yes.

**Q458 John Mann:** So you discussed that matter with colleagues afterwards?

**Paul Tucker:** I don't want to suggest that we sat round and said, "Well, what do you think about that?" in particular.

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**Q459 John Mann:** One would have thought you would have done. It is important enough to minute and it has proven to be a criminal fraud.

**Paul Tucker:** Which we did not realise at all.

**Q460 John Mann:** At the same time, academics realised it; Spence had been warning about this for some years, but precisely at the same time Christian Ewerhart of Switzerland identified this, and Rosa Abrantes-Metz specifically identified these issues soon afterwards. So outside academics could see what was going on and identified it and indeed suggested some solutions. Why could they see it from the outside and you are walled on the inside but you don't see it?

**Paul Tucker:** We didn't see it. I think there were other studies, including one by the BIS, although I think I am aware of this after the fact, that didn't conclude that it was a problem. Maybe we were just too focused on the financial crisis.

**Q461 John Mann:** You have an enormous and highly reputed research back-up with lots of staff at the Bank of England, you have academics writing papers alleging market manipulation that equals fraud, unambiguously, but you don't notice it.

**Paul Tucker:** Throughout this period, in this particular period, we were focused on how to get through December and the end of the year and into January without things taking a turn for the worse.

**John Mann:** And it was specifically mentioned in your own committee.

**Paul Tucker:** We were also very worried that further mortgage banks might fail and run out of money. This was a period—it was enervated—

**Q462 John Mann:** We are very aware of the period in time but we are also aware of the academic research that had been going on for some time, but clearly you and others in the bank weren't, and that is also worrying. Can I ask separately, we had Mr Diamond here on Wednesday, and you were asked to release these emails in advance and the Bank is accountable to this Committee under statute; why didn't you release this handful of emails?

**Paul Tucker:** We were asked under an FOI request from you personally. We went through our FOI procedures. We wanted to ensure that we had covered absolutely everything rather than giving you an inadequate response, and you had it as soon as we could.

**Q463 John Mann:** It is self-evidently obvious that these emails would have been useful to us in questioning Mr Diamond, extremely useful, but you didn't provide them. Under what authority were you acting in not providing them when you were specifically requested them, in advance of the meeting with Mr Diamond, for the meeting with Mr Diamond?

**Paul Tucker:** We were sent an FOI request by you, Mr Mann, and—

**John Mann:** Followed up by phone calls.

**Paul Tucker:** Absolutely, and the team processed it in a speeded-up version of what they would normally do for FOI requests.

**Q464 John Mann:** But this is the Treasury Committee questioning Mr Diamond on major issues of which the headlines put out by somebody incorporate various matters that have been already discussed with you earlier today, and yet these emails, which would take a few minutes to put together, are not provided when requested to this Committee. With what authority is the Bank of England operating by refusing this Committee those emails when you have a precise request?

**Paul Tucker:** We had an FOI request from you, Mr Mann. I don't think we did have a request through the Chair or the secretary of the Committee, but we processed this FOI request as quickly as we could. We have done it faster, I think, than the permitted timetable, and we have got it to you as quickly as possible.

**Q465 John Mann:** FOI is one piece of law. The accountability of the Bank of England is a separate piece of law. These emails refer to a chain of events going back to a supper between you and Mr Heywood, which I believe took place on 6 July. Why don't we have the emails between 6 July and September?

**Paul Tucker:** 6 July? There was a supper with Mr Heywood just before the email chain, that is in October. I haven't checked the records of earlier suppers.

**Q466 John Mann:** The email chain begins 6 July. So why don't we have—they may be innocuous—the emails from 6 July right through?

**Paul Tucker:** Oh, I see. Well, I assumed—and I am pretty sure of this—that Jeremy used the mails saying “Thanks for supper” as a way of finding my mail address. He just did a search “Tucker” and then sent. There are not missing mails between Mr Heywood and me, Mr Mann. We have provided you with a full answer to your FOI request.

**Q467 John Mann:** Is the Royal Bank of Scotland equally as culpable now, in your judgment, as Barclays is in regard to rate fixing?

**Paul Tucker:** I cannot possibly know. This is why inquiries and investigations are continuing by the relevant authorities. I have no idea.

**Q468 John Mann:** And other banks other than the Royal Bank of Scotland?

**Paul Tucker:** I have seen in the newspapers over the last year or so the same list of banks as you. I do not know.

**Q469 John Mann:** But that is because, not least, there have been court papers filed in the United States against these banks, some people sacked, some of those people sacked named in these court papers, so they are publicly available. You are saying that the Bank is not taking a keen interest in this?

**Paul Tucker:** No, not at all. These are investigations being conducted by the relevant authorities, the FSA, the CFTC and the Department of Justice. It is not for the Bank to intervene in that. That process has to travel its course.



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**Q470 John Mann:** Did the Chancellor of the Exchequer, before his speech in Parliament on Thursday and his article in the *Spectator*, contact you, or did his officials contact you or your officials, in relation to the accuracy of the issues that he outlined in the *Spectator* or in his speech in Parliament?

**Paul Tucker:** I have read neither. No, I think they were aware, of course, of the Department of Justice, CFTC, FSA conclusions, because they were published the previous week.

**Q471 John Mann:** You kind of answered this question previously, but what else should politicians be looking for in relation to market manipulation other than LIBOR that may have been going on, from your judgment now?

**Paul Tucker:** I think looking at these other self-certified indices, I have no evidence whatsoever that they are problematic, but I think their design should be changed, even if they are squeaky clean. I also think that, in terms of the changes that need to be made in banking to restore trust and credibility, we have to get to a point where treasury departments are not profit centres. They are there to fund the bank or the dealer, they are there to ensure that the bank or dealer has adequate liquidity on a rainy day, but they are not a profit centre being rewarded on profits. I think this is tremendously important. If I may say, I don't think bankers should wait for findings from regulators or this Committee or authorities internationally to do that; I think they should just get on and do it.

**Q472 John Mann:** Are there any other processes, in your view, that should be banned?

**Paul Tucker:** Should be banned?

**John Mann:** Yes, or more tightly regulated.

**Paul Tucker:** I think extending the scope of criminal sanctions is really important. I think that something else that needs to be looked at is incentives. There has been an awful lot of discussion and some measures taken internationally and domestically about pay of the top people, these remuneration codes, the FSA, the EU, the Financial Stability Board for the G20 and beyond. But I think there is probably an issue of the structure of pay for more junior people on the desks as well. It has probably been too easy to get rich quick. I have not thought this through carefully but it is hard not to ask yourself the question after the revelations of the past fortnight: should remuneration at desk level factor in compliance breaches, enforcement actions within that unit, within the division and beyond? I also think, as the Governor has said, the kind of Vickers split of commercial banking and wholesale banking needs to proceed.

**Chair:** This is a very big, general question.

**Q473 John Mann:** My final question, on sanctions. What range of sanctions should there be on those in a position to see market manipulation but who failed to see the evidence in front of their eyes?

**Paul Tucker:** I am not an expert in these things. I don't think I would wade into a debate about calibrating sanctions where I have no expertise.

**Q474 Mr Mudie:** Mr Tucker, can we accept the central fact that the LIBOR system is hugely important to large parts of the financial system—

**Paul Tucker:** Yes.

**Mr Mudie:**—and hugely important to the credibility of London?

**Paul Tucker:** Yes, not only to London but more broadly.

**Q475 Mr Mudie:** But as it is set here, if anything goes wrong it reflects on us. You have been asked several times, and you have given a wee bit of an answer there and an answer there—does the Bank of England accept any responsibility for the integrity of the LIBOR system?

**Paul Tucker:** We didn't see ourselves as having that role, Mr Mudie. In 1997–98 we stopped being a regulatory body.

**Q476 Mr Mudie:** Yes, but just rethink what we are saying. You think it is totally crucial to the credibility of London as a financial centre, and you think it is hugely important to the financial system, and you are the Bank of England. You may not have the legal responsibility—it is a BBA responsibility, you are not the regulator, as you have said—but don't you think that it would be very, very important that that system worked, and worked honestly?

**Paul Tucker:** I do think it is important, and I see the tension.

**Q477 Mr Mudie:** Yes, I genuinely can accept that. I think that is why Mr Diamond threw it in, but maybe he didn't throw it in, it was in the report. Mr Diamond's organisation was stealing from customers from 2005 to 2007. It was clear crookedness. They were rigging the rate for the personal benefit of themselves in bonuses and the firm's profits. Right? He throws this in because it is very important. The excuse is that it is a different situation. There is a financial crisis that we have not seen for decades and this might be a minor matter—and probably if you asked us to list the priorities, sorting the financial crisis out would be the top—but if a thing has integrity, it has to keep its integrity solid. We can't have a bit of integrity in good times but, "Never mind, we are going through troubled times." Do you accept that?

**Paul Tucker:** Yes. And had we thought we were being, or had I thought that I was being, alerted to dishonesty, I would have passed it on to the FSA. During the spring we were really concerned about the erosion of credibility of the LIBOR process.

**Q478 Mr Mudie:** I think we have progressed there but what I find difficult is what happened afterwards, and even the answer that was given by John Ewan. When these several group members made this allegation, John Ewan, in the minutes, outlined the quality control and safeguard measures used by the BBA. That seems to have been accepted.

**Paul Tucker:** Yes.

**Mr Mudie:** It is naive for the Bank of England and the FSA to sit there and hear serious people make allegations, and the fellow who runs the system says,

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“Oh, we have these quality controls.” You would expect a regulator and you would expect the Bank of England on such a matter to say, “Well, we hear, but we’d better have a look.”

**Paul Tucker:** And I think by the spring, when there were more widespread questions of the credibility of the process—not its honesty but its credibility—then we were engaging with the BBA in a pretty powerful behind-the-scenes way, but not in December, although I would note—

**Q479 Mr Mudie:** You see the trouble is, Mr Tucker, it is what happens. They go off to do a review, and the evidence from the American regulators is that in August they published their findings from the review and concluded from the contributing panel banks’ comments, including Barclays, “That the contributing banks were confident that their submissions reflected the cost of borrowing London interbank money and that the existing process for LIBOR submissions was appropriate and should be retained without modification”.

**Paul Tucker:** And the preliminary document, the consultation—

**Mr Mudie:** No, that was the document that went out after consultations, because I have your—

**Paul Tucker:** But during consultation—it went out for consultation and—

**Mr Mudie:** No, it went out and then it came back and then they put something in. Let me just read the final thing that makes me worry about the Bank of England. The final section of the draft notes that they wrote to the Bank of England and they said, “Let’s have your consideration” and he discussed it with you on Monday. This is the change you made. The draft suggested, “The Money Market Committee have extended an invitation to relevant public bodies and central banks to observe the processes”. The Bank of England wrote back, “We are concerned that that may imply that the public authorities will play some role in ensuring the integrity of the process so may I suggest an alternative formulation as follows. ‘The committee have extended an invitation to relevant public bodies and central banks to maintain dialogue on LIBOR and relevant markets’”.

First of all, it is not picked up, but even when they do the review and they even suggest you might sit in on it or do something to watch it, you say, “Well, we will have a dialogue.”

**Paul Tucker:** And the New York Fed took the same view as we did during that period. It turns out this may have been incorrect. The BBA consultative process went well beyond banks to users. They may have done it anyway, but I made clear to the BBA that I thought they needed to do that. When they put out their consultative paper I am not aware of comment going back to the BBA from any quarter saying, “You’ve got this wrong, there is a problem.” There was plainly a disparity between dollar LIBOR in London and dollar rates in the States, and that prompted this whole review by the BBA on which they consulted and we didn’t hear or find that it had been undermined.

**Q480 Mr Mudie:** Let me just ask you this, Mr Tucker: when did you first hear that the American authorities and the FSA were in looking at LIBOR with very serious questions?

**Paul Tucker:** Gracious, I can’t remember exactly.

**Q481 Mr Mudie:** No, which year? It wasn’t this year.

**Paul Tucker:** No, no. 2010?

**Q482 Mr Mudie:** Well, the question I ask as a politician to the Bank of England is this. This is getting to be a pattern. When I sat on this Committee with Northern Rock and asked the Governor why he had not intervened, “Not my responsibility. Not my responsibility. FSA. I had no powers.” “Bob Diamond,” or “Mr Diamond,”—I won’t get as familiar as he is—“Why didn’t you?” “I didn’t know. I was only the chief executive; I didn’t know anything about this.” Today, you opened up with, “I was the markets director of the Bank of England, it was my job to know what was going on.” Well, there was crookedness going on, there was market manipulation over two years going on, and you were told on two separate occasions—

**Paul Tucker:** I don’t accept that at all.

**Mr Mudie:** Well, we can argue and you can put your case, but the big question is—I watch other colleagues in councils, in hospitals, and so on; they realise there is something wrong and the supervisors or regulators are in; the first thing they do is get stuck into clearing out the stables, so that when the report comes out they have their hands up. What have the Bank of England done? If they had taken action to properly regulate, to put proper controls in, when this broke they could have said it was, as you said—we have heard your excuses—a perfectly liveable way but we have sorted it out.

**Paul Tucker:** There is another BBA review going on of—

**Mr Mudie:** I won’t hold my breath.

**Paul Tucker:** No, please, please. Of the design of LIBOR, and we have fed into that over some time that we would prefer to move to a transaction-based system.

**Q483 Mr Mudie:** Prefer to? You are the Bank of England.

**Paul Tucker:** No, no, hold on. We are not in a position to order them to do it.

**Mr Mudie:** An eyebrow lifted could get rid of Bob Diamond.

**Paul Tucker:** No, no, not an eyebrow, not an eyebrow lifted.

**Mr Mudie:** Was it two?

**Paul Tucker:** That we would prefer them to move to a transaction-based system, and that the massive transitional issues that that presents need to be thought through. We did not realise that every shred of its credibility was going to be torn up.

**Q484 Chair:** What confidence do you have that LIBOR is working normally now?

**Paul Tucker:** Big picture terms, giving reasonable indications of funding costs and which banks are more

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under pressure and which are not; reasonable, yes, in the way that I described during 2008.

**Q485 Chair:** With no rigging of markets? You are confident that there is no rigging of markets?

**Paul Tucker:** We can't be confident of anything after learning about this cesspit.

**Q486 Chair:** What action has been going on recently to make sure that it is not still going on?

**Paul Tucker:** The regulators have an inquiry going on and there is a review of the construction of LIBOR going on.

**Q487 Chair:** You are a non-executive director of the FSA, aren't you, and you have been since the spring of 2009?

**Paul Tucker:** Yes.

**Chair:** Did you step aside at all from FSA board meetings while this was being discussed?

**Paul Tucker:** Not entirely. There haven't been discussions of this inquiry in detail with me there.

**Q488 Chair:** None at all? Has this been discussed at board level by the FSA?

**Paul Tucker:** What has been flagged at board level and discussed among the authorities is what would the contingency plan be if LIBOR collapsed as a piece of global infrastructure.

**Chair:** Okay, but I am talking about the investigation, was that being discussed at board level?

**Paul Tucker:** No. Other than in very high-level reports, no, not that I know of.

**Q489 Chair:** So you have not been involved in any of this investigation?

**Paul Tucker:** No, absolutely not.

**Q490 Chair:** Did they come and see you and interview you about it?

**Paul Tucker:** I made clear that I was asked on a voluntary basis to see the three bodies doing the investigation and I saw them.

**Q491 Chair:** Who interviewed you about the discussion you had with Mr Diamond?

**Paul Tucker:** The discussion was led by the American authorities.

**Q492 Andrea Leadsom:** It seems odd. In the inquiry with Bob Diamond, he seemed to say nothing ever came to his desk and yet there were clearly procedures that should have been in place and weren't. It just concerns me that you seem to be saying the same thing, that you have procedures but you were all far too busy to follow them. Don't you think that it is precisely when there is a crisis that, if you have procedures to write down a note of every contact you have with the bank, that is the time to do it? There are something like 1,000 employees at the Bank of England, or is it not quite that?

**Paul Tucker:** 2,000.

**Andrea Leadsom:** 2,000. It just seems odd that all of this is going on somewhere down in the bushes there and yet the people who should be between them be doing

something about it are all saying, "I had no idea, I wasn't aware, no one brought it to my attention; it's nothing to do with me."

**Paul Tucker:** The extra pressures are not just on the senior people. We had to scale up our collateral team, I don't know, probably by an order of magnitude, because of the amount of lending we were doing. Every team at every level was under absolutely extraordinary pressure. As I hope I conveyed earlier, we accept that we need to go back and think about this. How easy it will be to address this while the crisis is continuing I don't know, but we need to draw the lessons.

**Q493 Mr Love:** If it hadn't been for the persistence of the American authorities in this matter, these reports might never have come out. What does that tell us about the regulatory structures in the United Kingdom? Will all the changes we are making be enough for us to be able to say, "We deal with the problems that occur in our market"?

**Paul Tucker:** I think we should all be very pleased that we are moving into a twin peak system where there is a separation between market regulation, the regulation of conduct in both wholesale markets and retail markets on the one hand, the FCA, and the oversight supervision for safety and soundness and resilience on the other hand.

**Q494 Mr Love:** But it was persistence that led the American authorities to continue with their inquiry when the FSA stopped theirs.

**Paul Tucker:** No, no, I am sorry, Mr Love, I think you are more likely to get that persistence in—I am a really strong believer in twin peaks—a regulatory body whose sole purpose, core purpose, is conduct regulation, wholesale and retail. It is often said over the last couple of years that the FCA will be the poor relation in all of this split that is going on. I have never believed that for one second. My personal view is that probably a quarter of a century too late London is going to get a proper securities and market regulator for the first time.

**Chair:** This is a very specific hearing on a specific point, and John Mann has one very quick question.

**Q495 John Mann:** It is specifically on the contingencies you have been planning, because unlike British local authorities—

**Chair:** I am assured by the way that this is a quick question.

**John Mann:**—who were barred in 1997 from buying these complex products, American local government has been doing so hugely, and that is the basis of the lawsuits, with large numbers of local states suing. What contingency arrangements are in place, and does this have a macro-impact because of the impact on British banks?

**Paul Tucker:** There are two elements to the contingency planning that is beginning, particularly the second bit I am going to mention. One is, what happens if people just won't participate in LIBOR and all of these contracts get priced the following days? Secondly, which is the point that you are referring to, could the class action suits or whatever they are

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called, cause such financial damage to the firms that it could undermine stability? And people are starting to think about that too; not conclusively yet, but people are focused on that.

**Q496 Chair:** Mr Tucker, you have told us that at various times it was well known or well understood, including by you and the Bank, that Barclays were the next in line, or they were certainly under pressure at this time of intense stress in the markets, and you have been saying that you encouraged Bob Diamond to take especial notice of what was going on in his treasury department. Indeed, that is the central response to the interpretation of the email. Were you therefore surprised, as frankly many of us were, that he did not notice that his bank was manipulating LIBOR submissions?

**Paul Tucker:** I really don't know. I know very little—

**Q497 Chair:** But wouldn't it have been a bit surprising?

**Paul Tucker:** What I am surprised by is that the compliance people and the supervisors on the dealing floors did not identify this and elevate it upwards. I haven't heard a suggestion—and this may be wrong—that people did elevate it and it didn't reach him.

**Chair:** Okay. This is a hearing called at very short notice, largely at your request, and we are particularly grateful to you for coming along and being frank with us this afternoon. Thank you. We have learned something for our inquiries, and we are very grateful.

**Paul Tucker:** Thank you very much.

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**Tuesday 10 July 2012**

Members present:

Mr Andrew Tyrie (Chair)

Michael Fallon  
Mark Garnier  
Stewart Hosie  
Andrea Leadsom  
Mr Andrew Love  
John Mann

Mr Pat McFadden  
Jesse Norman  
Teresa Pearce  
Mr David Ruffley  
John Thurso

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**Examination of Witness**

*Witness:* **Marcus Agius**, Chairman, Barclays PLC, gave evidence.

**Q498 Chair:** Thank you very much, Mr Agius, for coming in this morning. You have just announced your intention to leave Barclays, and if you have anything particular you want to say in respect of that, I think now is an opportunity. I understand that negotiations have been continuing with Mr Diamond about his severance terms, and if you have anything you want to say on that, do tell us now.

**Marcus Agius:** Thank you, Mr Chairman. So far as my own resignation is concerned, I imagine there will be a chance during questions and answers to give my version of that. I do want to take the opportunity now to tell the Committee about Mr Diamond's severance package, because I understand obviously it is a matter of public interest. Shortly before I came here this morning I received a notice of what is about to happen, and I thought rather than us put out a press announcement ahead of this Committee, I would rather show my respect for the Committee by announcing it here this morning. What has happened is that Bob Diamond has voluntarily decided to forgo any deferred consideration or any deferred bonuses to which he otherwise would have been entitled.

**Q499 Chair:** What is the value of those?

**Marcus Agius:** It is not a precise figure because it depends on certain things.

**Q500 Chair:** At current valuations.

**Marcus Agius:** The maximum amount would be £20 million.

**Q501 Chair:** Is there anything else you would like to add?

**Marcus Agius:** No, I would just say that obviously this is a decision for him, but, frankly, I think it is something that the board of Barclays welcomes and I am glad that he has done it.

**Q502 Chair:** Thank you for those opening remarks. You will have seen Martin Taylor's remark in the newspapers the other day: "I deserve blame for being among the first to succumb to the myth of Bob Diamond's indispensability, to which some in Barclays were still in thrall only a matter of days ago." Were you one of those?

**Marcus Agius:** I obviously was not in Barclays when Mr Taylor was there, but I was on the board and indeed I was Chairman when Bob Diamond was

appointed as Chief Executive. One of the most important actions for any Chairman is to manage a Chief Executive succession because so much depends upon the choice.

**Q503 Chair:** Have you resigned because you didn't manage your Chief Executive successfully?

**Marcus Agius:** No, that was not the reason I resigned. If I could deal with the first part first, we will then deal with the second part. When John Varley told me of his intention to retire, obviously it was a matter of great concern as to who his successor should be. Bob Diamond existed inside the bank and he was an obvious candidate, but I was also very concerned—as indeed were the rest of the board, it being a board appointment not a Chairman appointment—that we should choose someone who would be the right person to lead the bank going forward. We talked to other people; we benchmarked available talent, and the board was unanimous in its decision that Bob Diamond was the right person to become the Chief Executive of Barclays.

**Q504 Chair:** I wrote to you asking for two letters from the FSA, the first at the time of Bob Diamond's appointment as Chief Executive and the second in the spring of this year. You have sent these to us as we requested, but you have redacted them without first consulting us. I would like to bring Michael Fallon in on these redactions.

**Q505 Michael Fallon:** Thank you, Chairman. I again remind the Committee of my registered interest as a non-executive director of Tullett Prebon, the broker. What is the purpose of these redactions?

**Marcus Agius:** The purpose of the redactions is because the items that have been redacted are commercially sensitive and, in our view and that of the FSA, not relevant to this inquiry.

**Q506 Michael Fallon:** Right, but are they entirely commercial and not simply legally sensitive?

**Marcus Agius:** No, they are commercially sensitive.

**Q507 Michael Fallon:** They refer to commercial operations or bids?

**Marcus Agius:** They are commercially sensitive.

**Q508 Michael Fallon:** Matters of that kind.

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**Marcus Agius:** Yes, and, Mr Fallon, we did discuss them with the FSA and they were in agreement that the redactions were appropriate.

**Q509 Chair:** You were asked to discuss them with me.

**Marcus Agius:** I understand my staff did discuss it with your staff. I did not discuss it with you and for that I apologise.

**Q510 Chair:** Those letters show that not just people in Barclays or ex-Barclays, such as Martin Taylor, expressed concerns, but that the regulators were very concerned too, weren't they?

**Marcus Agius:** There were two letters you asked for. One was the letter of approval of Bob Diamond sent to me by Hector Sants, and in respect of that he makes a number of points.

**Q511 Chair:** Why don't we take the 2010 letter first? What did you take from the FSA's description of what they expected from Bob Diamond as Chief Executive, that they wanted a "close, open and transparent relationship", and their specific expression of concern that there be appropriate oversight of his immediate subordinates, especially del Missier?

**Marcus Agius:** There are two points together in that. The first point I believe is a statement they would have made in respect of any Chief Executive.

**Q512 Chair:** Do you think that is the sort of thing they put in every letter and they just lift that as some kind of cut and paste?

**Marcus Agius:** It would be surprising if they did not make that statement to any Chief Executive coming in.

**Q513 Chair:** It is worth reading: "The FSA expects Bob Diamond to continue to develop"—not keep—"a close, open and transparent relationship with his regulators." Do they come out with that line to every Chief Executive?

**Marcus Agius:** Bob Diamond prior to being appointed as Chief Executive of Barclays was the President; he was not the leading executive in the bank. That was John Varley. John Varley did have a close relationship with the FSA; Bob Diamond was at one remove, so for them to expect him to develop a close relationship coming into the job is exactly what I would have expected them to have said.

**Q514 Chair:** And on Del Messier and his team? "We will also require that there is appropriate clarity in oversight and responsibilities and that independent challenge is provided by Bob Diamond in his role as Group CEO" to them.

**Marcus Agius:** Yes, and that was a point that we made separately to Bob, self-evidently because he had grown up—if that is the right expression—in the investment bank. Jerry Del Messier and Rich Ricci were his lieutenants. When any person makes the move from one division into the centre, it is vital that he dissociates himself or becomes more objective in his treatment of that division than he would otherwise have been hitherto.

**Q515 Chair:** But he was not challenged, was he? He got on with misinterpreting Mr Diamond's email and ended up authorising false LIBOR returns in late October and November 2008, didn't he?

**Marcus Agius:** I was not involved in that exchange.

**Q516 Chair:** That is what the FSA Final Notice says.

**Marcus Agius:** Yes.

**Q517 Chair:** Am I right or wrong?

**Marcus Agius:** That is what the FSA Final Notice says.

**Q518 Chair:** The FSA also said in that letter that they "place considerable emphasis on the CEO setting the right culture, risk appetite and control framework".

**Marcus Agius:** Yes.

**Q519 Chair:** Would you agree that we now know that we had the wrong culture, the wrong risk appetite and the wrong control framework?

**Marcus Agius:** In respect of that, I would say that the problems that are the subject of the inquiry—the actions that happened in 2005, 2006—all happened before Bob Diamond was appointed Chief Executive, and at the time of his appointment as Chief Executive they were known to the FSA, who nevertheless approved his appointment. The FSA must have been satisfied that such changes as had already been made in the risk culture were satisfactory.

**Q520 Chair:** The FSA's fears and concerns expressed in that letter were borne out, weren't they? First of all, there was what happened in 2009 with Protium and the monoline CVA positions. Then of course there were the things that happened subsequent to that letter. Indeed, these are set out in a letter to you by Adair Turner on 10 April, which is pretty explicit, and those events took place after you had a meeting with Lord Turner. You say, incidentally, in your letter of April the "tone from the top" was one of the FSA's specific concerns. If we turn to the transcript, when I asked Bob Diamond exactly that question he said the FSA was "specifically pleased" with the tone at the top. Do you think this Committee was misled by Mr Diamond?

**Marcus Agius:** What Mr Diamond was referring to in that transcript was a visit by Andrew Bailey, who is not technically the Chief Executive of the FSA but I think he is the acting senior officer. I am a little vague on what his precise job description is, but he is effectively the successor to Hector Sants and will have an ongoing role once the new regulatory regime emerges. He came to our board together with a colleague in February of this year. The FSA come to see the board of Barclays every year, and I imagine they do the same thing with other banks. During the course of that session at Barclays Bank, Andrew Bailey said, "We are satisfied with the tone at the top of Barclays, particularly in respect of Bob Diamond and Chris Lucas."

**Q521 Chair:** So it is Lord Turner's letter or, rather, your letter about your meeting with Lord Turner that is misleading in this case.

**Marcus Agius:** Not misleading. I think they are talking about different things. Could I try to give some context to the Lord Turner letter?

**Q522 Chair:** What we will do is ask the FSA about this, and colleagues might come back to this in a moment. I would like just to move on to the Adair Turner letter. It is just worth reading out what he actually said: “I wished to bring to your attention our concerns about the cumulative impression created by a pattern of behaviour over the past few years, in which Barclays often seems to be seeking to gain advantage through the use of complex structures, or through arguing for regulatory approaches which are at the aggressive end of interpretation.” Is that something that you recognise?

**Marcus Agius:** When any bank deals with its regulator, it has to deal with very complex matters. It is not like a speed cop catching you for going more than 30mph in a 30mph speed limit. Very often the points that are raised and the issues that are discussed are complex and capable of interpretation and are capable of debate. We have historically chosen to debate with our regulators whenever we thought it appropriate in order to ensure that whatever regulatory decision arrived at was the appropriate one in all the circumstances.

**Q523 Chair:** Whether you are sailing close to the wind or driving at the speed limit, you are clearly being asked by the FSA to take more care, aren't you?

**Marcus Agius:** What I took from Lord Turner's interview and then subsequent correspondence was: “Look, you do this too much. It's not helping your relationship with the regulator. Would you please rethink this?” I took that point.

**Q524 Chair:** If we go through the list of concerns—it is a long one, even with the redactions—we have the risk-weighting of capital; we have index hedges. Perhaps it is worth just reading out what it says on that: “Your desire to move index hedges of own credit from the trading book to the banking book ... used up our resource and goodwill.”

**Marcus Agius:** That is what it says.

**Q525 Chair:** That doesn't sound very good, does it?

**Marcus Agius:** As I said before, we invariably seek to try to achieve the best regulatory outcome with our regulators by engaging them, not with a view to doing anything we should not do but just trying to manage the process. Very often we say, “Fine, we understand what you are trying to do and we are happy with that.” Sometimes they say, “No, I see your point,” and a different outcome is reached. What that letter is saying is that we overdid it.

**Q526 Chair:** Yes, you overdid it. You do not think that, all in all, a more cautious approach might have been called for from you?

**Marcus Agius:** When we discussed the relationship with the FSA, particularly after the visit from Andrew Bailey, the conclusion of the board after Andrew Bailey had gone was that it served no useful purpose

for us to have anything other than a positive and constructive relationship with our regulator.

**Q527 Chair:** It does not look as if it were positive and constructive. Here we are on stress tests: “The confusing and potentially misleading”—so you were misleading regulators—“impression created by Barclays' initial presentation of its position under the EBA stress tests ... [left] an impression that Barclays were seeking to spin its messages in an unhelpful fashion.”

**Marcus Agius:** This was occasioned by a rather hectic period just prior to the end of last year, when there was a great deal of focus on banks' capital ratios and in particular Barclays' capital ratio. In order to accommodate the end-of-year picture in a way that was going to make most sense all round, we had to have some accelerated interchanges with our regulator. I think the stress of that pressure showed on both sides.

**Q528 Chair:** What about the tax management issue? “The net impact has clearly been unfavourable to the degree of external trust in Barclays' approach to issues such as tax, regulation and accounting.”

**Marcus Agius:** I cannot disagree with that. The issue to which you refer has been talked about quite a lot in the media and elsewhere. We engaged in some tax planning at that time. It was perfectly legal. We took external advice from a leading accounting firm and a leading law firm. I can assure you the governance was impeccable, but nonetheless after we had done it there was some retrospective legislation that pulled the rug from under our feet, and the reputational impact was severe. I absolutely see that.

**Q529 Chair:** Here is Lord Turner's conclusion on behalf of the FSA: “The cumulative effect of the examples set out above has been to leave us with an impression that Barclays has a tendency to continually to seek advantage from complex structures or favourable regulatory interpretations. These concerns are sufficiently great that I felt it was appropriate to communicate them directly to you, and to urge you ... to encourage a tone of full co-operation and transparency.” Presumably they thought that there was not at that time a tone of full co-operation and transparency, or else he would not have written it, would he?

**Marcus Agius:** The message was well received and, as I said, when discussed at the board, the decision was to—

**Q530 Chair:** This is just a couple of months ago, isn't it?

**Marcus Agius:** Yes.

**Q531 Chair:** So things were in a pretty desperate state with respect to your relationship with the regulator by this time.

**Marcus Agius:** I do not accept the word desperate.

**Q532 Chair:** What word would you like?

**Marcus Agius:** I think that Lord Turner was interviewing me as Chairman of Barclays, as he

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should have done, to say, “Look, when we deal with you, you try too hard.” He does not say that anything we are trying to do is improper or anything we are trying to do is incorrect, but that in trying to seek the best outcome for the bank we are testing the goodwill of his staff, and I understand that.

**Q533 Chair:** Do you think this is proper and correct conduct by a regulated firm?

**Marcus Agius:** Our job is to operate absolutely within the regulations and absolutely within the law. Our job is to do everything right and proper that we should do, but I also understand and know full well that we operate in an extraordinarily competitive international industry. Our job is to try to do the best we can for all of our stakeholders within the constraints that I have mentioned just now of regulations and of the law.

**Q534 Chair:** I will give you another go. With what word would you like to try to summarise your relationship with the regulator here? Strained? Difficult?

**Marcus Agius:** Strained I think would be fine.

**Q535 Chair:** When Mr Diamond came before us, he did not give any impression of that strain, did he? He did not give a full and fair representation of his relationship with the FSA when asked about it, did he? He gave the opposite impression, didn't he? I have the transcript here.

**Marcus Agius:** What he referred to is what you referred to earlier, Mr Chairman. He said that when Andrew Bailey came to see us, he said the tone at the top was satisfactory.

**Q536 Chair:** He described these strained exchanges as no more than a conversation.

**Marcus Agius:** As I said before, when any bank, and indeed I imagine many other industries, interacts with its regulator on complex matters, particularly where they are capable of different interpretations, I think it is within reason the job of the regulated entity—in this case a bank—to put its side of the case as favourably as it can. That is what it is there to do.

**Q537 Chair:** Can you think of any reason why we should not conclude that he has treated Parliament with the same cavalier attitude with which he was treating the FSA?

**Marcus Agius:** I am sure that was not his intention.

**Q538 Chair:** I am asking whether that was the effect.

**Marcus Agius:** That is for you to judge.

**Q539 Chair:** Isn't it really why he had to go?

**Marcus Agius:** Would you like me to lead on to the reason why he had to go?

**Q540 Chair:** Isn't this the reason why he had to go? It is the culture at Barclays that came from the top, from the Chief Executive, that you did not keep under control, Mr Agius.

**Marcus Agius:** The reason he had to go was different from that.

**Q541 Chair:** You had better tell us what this different reason is.

**Marcus Agius:** Mr Tucker may have alluded to it in part yesterday. Please indulge me in the history of this. We have known about these various inquiries for some time; they have built cumulatively until the point where we reached settlement and made the announcement on Wednesday two weeks ago. One of the agencies that was involved in this was the FSA. Indeed, all of the information that we passed to the CFTC was passed through the FSA, and a very great deal of information there was too. That resulted in the fines that were settled, and we had to make an announcement. We had to decide as a board what our reaction should be to having to make this settlement and pay these fines. We debated it, as you would expect, and we differentiated between culpability and responsibility.

What we took more than comfort from was the fact that the FSA did not find against—if that is the right expression; forgive me if I am using loose language—Bob Diamond or any of the other senior management of the business in terms of culpability. However, you cannot see a settlement like that without recognising that responsibility is required, and the solution we devised was that the four senior executive officers who were on the deck when these matters occurred should recognise their responsibility by forgoing their bonuses. We hoped, obviously, that that would be deemed to be proportionate in all the circumstances. Evidently we were wrong, because the public outcry afterwards was extraordinarily great.

We met as a board on the Friday evening that week to take stock of where we were, and it was clear that the public clamour had been extraordinarily great, and there was great concern as to what should then follow. We took stock of how the news had been received, not just in the political world and not just in the media world, but amongst our customers, amongst our employers and amongst our shareholders. The message we received in strong terms from the market was that the one outcome that the shareholders did not want to see was the removal of Bob Diamond. That was the outcome they did not want to see, as they believed in him as a very effective Chief Executive. We, the board, believed in him as a very effective Chief Executive. That is why we approved his appointment in September 2010.

As it went into that weekend, I was faced as Chairman with the dilemma that there was far greater reputational damage than we had anticipated, and certainly far greater than we had sought. There was a requirement for some further action from the bank, and that is why I felt, as the ultimate person responsible for the reputation of the bank, that I should resign. I made that decision personally on Saturday night and I conveyed it to the board on Sunday; it was announced on Monday morning.

**Q542 Chair:** You resigned because, although you had a great Chief Executive, you acknowledged that you had not kept him under adequate control.

**Marcus Agius:** I resigned for the reasons I stated, Mr Chairman. I felt ultimately responsible for the reputation of the bank.



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**Q543 Chair:** You do not think that those who argue, particularly some shareholders, that this is a firm that is being wrecked by poor corporate governance have a case.

**Marcus Agius:** I was going to come on to Bob Diamond, but I will divert on to that if you would like me to. On the question of governance, there is an interesting exchange, because one of the activities of the FSA in recent times has been an increased degree of supervision over all of their banks. One of the supervisory activities they engaged in was what they called a “governance review” of Barclays amongst others. We received a letter from the relevant official at the FSA, saying that they had examined the governance at Barclays and found it satisfactory. I would go further and, if I can breach a confidence, on the way to the lift to show the official down, she said, “I normally rather fear these interviews with banks because I never have good news to give. I was happy with yours because I did have good news as far as the governance of Barclays, as we see it. In fact, I would rank you best in class.” This is from the FSA.

**Chair:** I dread to think what is going to happen when we get the reports from the regulators on all the rest of the LIBOR cases, but there we are.

**Q544 John Mann:** Have you received professional assistance in preparing for today’s hearing?

**Marcus Agius:** I have had a team of people at Barclays who told me what questions I might expect, yes.

**Q545 John Mann:** I just wondered because you were quoting exactly the same phrases Mr Diamond had used identically. You are in charge of the bank; did your bank this morning brief journalists before eight o’clock that you were going to be making your announcement on remuneration at this Committee.

**Marcus Agius:** I hope not.

**Q546 John Mann:** I am asking did they or didn’t they?

**Marcus Agius:** I have no knowledge of that.

**Q547 John Mann:** You have no knowledge?

**Marcus Agius:** I have no knowledge of that and I would be upset if that was the case.

**Q548 John Mann:** You would be upset if that was the case, but you do not know whether your bank did.

**Marcus Agius:** Yes. I have been here and I have been elsewhere this morning.

**Q549 John Mann:** It is just you are in charge; that’s all. The letter of 10 April, which you are seeking to play down—

**Marcus Agius:** No, I am not seeking to play it down. It was a very serious letter.

**Q550 John Mann:** On the board meeting of 9 February, there is some disagreement about what was said. Could we have a transcript of the section of the board meeting where Mr Bailey was in attendance so we can make our own judgment?

**Marcus Agius:** We do not produce transcripts, but you can certainly have a copy of the relevant section of the minutes.

**Q551 John Mann:** You will have recorded the meeting, so can we have a copy of the recording of that section of the meeting?

**Marcus Agius:** Mr Mann, we do not make a transcript verbatim. We take minutes.

**Q552 John Mann:** But you will have recorded the meeting, so can we have a recording of that section relating to Mr Bailey and what was said.

**Marcus Agius:** There was no recording. We do not take recordings of our board meetings.

**Q553 John Mann:** That’s convenient.

**Marcus Agius:** But, sorry, I am happy to let you see a copy of the minutes, and the minutes do include reference specifically to the point I just made about the comment by Mr Bailey as to the tone from the top specifically set by Mr Diamond and Mr Lucas.

**John Mann:** This letter from Lord Turner—I will re-read out what was said. “I wished to bring to your attention our concerns about the cumulative impression created by the pattern of behaviour over the last few years in which Barclays often seems to be seeking to gain advantage through the use of complex structures or through arguing for regulatory approaches which are at the aggressive end of interpretation of the relevant rules and regulations.” Mr Diamond described this in his evidence to us as, “This is the annual review from the FSA.” Is that what the FSA said to you every year?

**Marcus Agius:** You are confusing the two things. The annual review was the visit to the board in February by Mr Bailey. The letter from Mr Turner was separate.

**Q554 John Mann:** No, the letter then goes on to say, “Andrew Bailey also expressed these concerns at your board meeting,” so I am not confusing anything. Did the FSA say these things to you every year in this, as Mr Diamond described it, annual review from the FSA?

**Marcus Agius:** Every year when the FSA comes to see us, they do not, as you would expect, say, “Everything that you are doing is absolutely perfect.” They seek to find those areas where they think further attention needs to be paid, and that is what they tend to review with us. That is what tends to happen.

**Q555 John Mann:** The letter from Lord Turner highlights “Protracted communications between ourselves and Barclays ... Our team felt that Barclays continued to argue for capital optimisation in a way which inefficiently used up our resource and goodwill.” However, as well as saying this is merely the annual review from the FSA, Mr Diamond told us that the FSA were “specifically pleased” with them. That does not sound very pleased.

**Marcus Agius:** I assume what he was referring to by saying that they were pleased with us was in respect of this tone from the top—the comment that was specifically made by Mr Bailey at that board meeting he attended.

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**Q556 John Mann:** No, that is in relation to precisely the question I just put to you, put to Mr Diamond by our Chairman.

**Marcus Agius:** I am sorry—

**John Mann:** Precisely the question I put to you is the question our Chairman put to Mr Diamond, and Mr Diamond said that they were “specifically pleased”.

**Marcus Agius:** I repeat that I think he was referring to the comment by Mr Bailey as to the tone at the top.

**Q557 John Mann:** No, he is answering about the annual review.

**Marcus Agius:** I am sorry. I do not have the transcript.

**Q558 John Mann:** He is answering from the annual review of the FSA—the stress tests, etc. What Mr Diamond says is, “I don’t remember anything.” Mr Diamond has been misleading this Committee, hasn’t he?

**Marcus Agius:** I cannot comment on that.

**Q559 John Mann:** We only got this letter from you this morning, just before the Committee. This could have been made available to us before Mr Diamond came. The letter from Lord Turner is unambiguous, but Mr Diamond does not remember anything, suggests that the FSA was “specifically pleased” and suggests that all this is an annual review from the FSA. In this letter, Lord Turner, the FSA, is tearing a strip off Barclays and what you are doing operationally and culturally.

**Chair:** Mr Agius, you might want to refer to the relevant section in the transcript and take a moment to read it now. It is question 19 particularly that we are looking at here. Take a moment just to read if you want.

**Marcus Agius:** The genesis of this exchange seems to me in question 17, where there was an assertion that the FSA had at some stage said they “no longer have confidence in the senior executive management team”, and Bob Diamond was pushing back against that.

**Q560 Chair:** If I may interrupt just for a second there, whether or not they had confidence, a fair summary is that the relationship was strained, by your own admission.

**Marcus Agius:** Strained—but there is a big difference, with respect, Mr Chairman between having no confidence and being strained.

**Q561 Chair:** This was not just a discussion on the basis of a customary annual review, as Mr Diamond asserts, was it?

**Marcus Agius:** When they come and do our annual reviews, what they always do is say, “These are the areas where we think you are doing well, and these are the areas where we think you need to try harder,” like any other annual review. I do not mean to trivialise them, but that is the essence of what happens. When the FSA visits us and they say, “Here are areas where we would like to see progress,” we take that as being part of the normal course of the interchange.

Lord Turner’s letter was exceptional because he was trying to make a separate point, which was that, in our

interactions with the FSA, because we have always tended to try to make sure that we are not given regulatory judgments that we think are less than appropriate and because therefore we tend to argue the toss, if I can put it that way, the extent to which we have done that—again I do not intend to trivialise anything by the use of my language—was causing a problem for the FSA and he thought he should bring that to my attention. He did, and I responded to it.

**Q562 John Mann:** But it is not exceptional: he said “protracted communications”. Let’s look at question 20: “Isn’t it true that there were challenges from them about your stress tests, your accounting practices, the handling of the Protium deal? Of course, we have subsequently had the debt buy-back scheme, the interest rates swaps problems and of course now LIBOR. Isn’t this all part of a pattern?” We have this letter on these matters from Lord Turner. Perhaps you could quote Bob Diamond’s response to this Committee on the Chairman’s question on this. Bob Diamond knows about this letter because he is there and in charge when this letter arrives. Can you quote from what Mr Diamond says?

**Marcus Agius:** I can if you would like me to.

**John Mann:** Please.

**Marcus Agius:** What Mr Diamond is recorded as having said is, “I don’t remember anything—I didn’t brief before this on the February meeting, so I don’t mean to skip over anything, if I am,” and more.

**Q563 John Mann:** So the response was, “I don’t remember anything” and yet we have this letter to your bank, which is the most extraordinary letter on the most serious of issues, at the time Mr Diamond was in charge, and he has calculatedly and deliberately misled this Parliamentary Committee. It cannot be possible, can it, that Mr Diamond was not aware of this letter and had forgotten about it?

**Marcus Agius:** I can’t speak to Mr Diamond’s testimony.

**Q564 Chair:** You remember the letter very well, don’t you?

**Marcus Agius:** Yes, I do.

**Q565 Chair:** And it made an impact on you.

**Marcus Agius:** It did.

**Q566 Chair:** You presumably had conversations with the Chief Executive about it, didn’t you?

**Marcus Agius:** We discussed it at the board.

**Q567 Chair:** And there were lengthy conversations I expect. Give us a feel for how lengthy was lengthy, roughly.

**Marcus Agius:** Half an hour/20 minutes.

**Q568 Chair:** 20 minutes to half an hour. Did the Chief Executive say anything?

**Marcus Agius:** I do not recall.

**Q569 Chair:** Okay, but we are going to have the minutes. You certainly remember all this pretty

vividly. The Chief Executive does not seem to be able to remember any of it.

**Marcus Agius:** I cannot speak to his testimony.

**Q570 Chair:** Does this pattern of behaviour have anything to do with why he has gone?

**Marcus Agius:** No.

**Q571 John Mann:** I have one other area of questioning to clarify. You informed us Mr Diamond is going to be leaving with a package worth £20 million. Is that what you said?

**Marcus Agius:** He is not going to be leaving with a package of £20 million.

**Q572 John Mann:** How much is the package worth?

**Marcus Agius:** The package that might have been worth £20 million he has voluntarily surrendered.

**Q573 John Mann:** So no package at all.

**Marcus Agius:** No, he will get the rest of his salary, but that is it.

**Q574 John Mann:** Is that a unanimous view of your remuneration committee?

**Marcus Agius:** That was his decision. It was his decision. We agree that that was the right thing to do; it was his decision to do it.

**Q575 John Mann:** Is there any dissent on your remuneration committee about that?

**Marcus Agius:** No, nor on the board.

**Q576 John Mann:** Any argument between you and the chair of the remuneration committee on this issue?

**Marcus Agius:** No.

**John Mann:** None whatsoever?

**Marcus Agius:** No.

**Chair:** Can I just say, we did not feel we had much clarity or openness from Mr Diamond, but whether or not we agree with them, the answers you are giving us today have been direct and frank. We appreciate that and it is extremely valuable to our inquiry.

**Q577 Mr McFadden:** Mr Agius, can I take you back to the letter of 2010 at the time of Bob Diamond's appointment? This is a letter from Hector Sants to you as the Chairman. He mentions several points. He says, "It has already been identified that this [appointment] will require an increased level of engagement from Bob Diamond and we have made our expectation known to him." It goes on to say, "We place considerable emphasis on the CEO setting the right culture, risk appetite and control framework across the entire organisation." He concludes by saying they "will look to be satisfied that the required focus on the retail banking business and consumer outcomes is maintained by him".

In the transcript from Mr Diamond's testimony to us last week, the Chairman asked him about this and said, "It is true, isn't it, that the FSA were concerned about your appointment as Chief Executive? They sought assurances from the board ... is that not correct?" Mr Diamond's reply is, "That's the first I've ever heard that there was any question about my

appointment as Chief Executive." He goes on to say, "I knew nothing about it at the time I was appointed. Correct. I don't know"—the present tense—"anything about it." Did you ever discuss any of the things raised in the Hector Sants letter with Mr Diamond?

**Marcus Agius:** If I can talk to that, I would like to. As I said before, conducting the search for a Chief Executive is one of the most important things a Chairman can do. You need to get it right and you need to get it right in every respect. As the process was nearing its conclusion I thought it prudent to go and have a conversation face to face with Hector Sants just to make sure that there was going to be no difficulty with the FSA. I called on Hector Sants and I said, in effect, "It's looking as if we are going to conclude that Bob Diamond is the person we should appoint as Chief Executive. I assume that's not going to cause you any difficulty." His response was, "Not only is that not going to cause me any difficulty, I can tell you now that, if it were, I wouldn't be happy with him where he is now in his present role."

**Q578 Mr McFadden:** So you never, as Chairman of the company, relayed any of these three or four specific points in the Hector Sants letter to the Chief Executive?

**Marcus Agius:** As I said in earlier exchanges, I believe that at least two of the comments are generic and would be made of any Chief Executive, and two of them are specific to Bob, namely: "You need to distance yourself from your former colleagues," which is an absolutely right thing to say; and secondly, "You need to improve your knowledge of the side of the bank that you don't know so much about"—absolutely right. I would have relayed those to him.

**Q579 Mr McFadden:** It is quite simple: did you relay these concerns to him?

**Marcus Agius:** I would have relayed those things to him.

**Q580 Mr McFadden:** So why does he tell us: "I knew nothing about it at the time that I was appointed. I don't know anything about it."

**Marcus Agius:** I can't speak to his testimony.

**Q581 Mr McFadden:** Do you accept that what he told us and what you have just told us are hard to reconcile?

**Marcus Agius:** I can't speak to his testimony.

**Q582 Chair:** Well, you could offer a view on that.

**Marcus Agius:** I could offer a view on that, but the challenge was that the FSA had problems with his appointment and, as I said, from my earlier exchange with Hector Sants they had anything but.

**Q583 Mr McFadden:** But it is your job as Chairman to reflect the concerns of the FSA to the prospective appointee, is it not?

**Marcus Agius:** Yes. I would challenge the word "concerns". That letter raises four issues and they are called "issues". The word "concerns" I do not believe appears. I am not being pedantic but there is a difference between "these are issues which I would

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like to raise with you” and “concerns”, which means “I’m worried”.

**Q584 Mr McFadden:** Did you reflect any of this to him or not?

**Marcus Agius:** Yes, I did.

**Q585 Mr McFadden:** You did?

**Marcus Agius:** Yes, I did.

**Q586 Mr McFadden:** But he has told us he knew nothing about it and he still doesn’t know anything about it.

**Marcus Agius:** I’ve attempted to interpret that, and you are asking me to speak to his testimony, which I think is difficult.

**Q587 Mr McFadden:** Now, let me ask you about this issue of tone at the top. At question 15 of last week the Chairman asked Mr Diamond what was said at this February meeting. Mr Diamond said, “The focus and tone at the top was something that [the FSA] were specifically happy with.” Yet we have a letter in front of us from you to Lord Turner, dated 18 April of this year, which says, “It was clear that ‘tone from the top’ is one of the FSA’s concerns.” So we have the diametrically opposed opinion expressed by your Chief Executive last week compared with what you said in your letter, where you acknowledge that the tone from the top is “one of the FSA’s concerns” in April. How do you explain that?

**Marcus Agius:** I can only repeat what the board was told by Andrew Bailey when he came to see us.

**Q588 Mr McFadden:** Which was?

**Chair:** Sorry, I did not hear that, Mr Agius. Could you speak up?

**Marcus Agius:** Sorry, I can certainly speak up. I was going to repeat what I heard and the rest of the board heard from Andrew Bailey when he came to attend our meeting. He was pleased with the tone at the top, particularly insofar as it reflected the actions of the Chief Executive and the Chief Financial Officer. What he also said, which I think comes out in that letter, is that in the day-to-day interactions, sometimes the interactions were a bit too—

**Q589 Mr McFadden:** I am sorry. This just does not tally. It says here, and I am quoting you here—this is your letter—“It was clear that ‘tone from the top’ is one of the FSA’s concerns.” That is you saying this to Lord Turner a couple of months ago.

**Marcus Agius:** That is in response to his letter to me.

**Q590 Mr McFadden:** Yes, but you are saying in your letter the tone from the top is one of their concerns and you are telling us now it was not.

**Marcus Agius:** I am telling you what Andrew Bailey told me.

**Q591 Mr McFadden:** Why does your letter say that the tone from the top was one of the FSA’s concerns?

**Marcus Agius:** Because that is a different exchange from the visit to the board, and it was as a result of

my interview with Lord Turner and his subsequent letter that led me to write what I wrote.

**Q592 Mr McFadden:** Either the tone from the top is a concern of the FSA or it is not. Which is it?

**Marcus Agius:** I am sorry; what my letter says is, “The Board and I took note of Andrew Bailey’s comments in our February meeting and, while he specifically excluded Bob Diamond and Chris Lucas from his comments, it was clear that ‘tone from the top’ is one of the FSA’s concerns.”

**Q593 Mr McFadden:** Exactly.

**Marcus Agius:** So it should be.

**Q594 Mr McFadden:** Exactly, but you keep saying the tone from the top was not one of their concerns.

**Marcus Agius:** No, I said what he said in respect of Bob Diamond and Chris Lucas was that he was satisfied, but getting the tone from the top right is a continuing source of concern. I think that was a forward-looking statement.

**Q595 Chair:** If I can just pick up on that—sorry, Mr McFadden—are you just saying you think it is a forward-looking statement?

**Marcus Agius:** Yes.

**Q596 Chair:** So this is a concern about what might happen in the future, but isn’t yet a concern now?

**Marcus Agius:** To ensure that going forward the tone at the top is as it should be.

**Chair:** I see. Well, it is an interpretation. I will put it no stronger than that. Mr McFadden.

**Q597 Mr McFadden:** Do you accept that these different views of both the letter at the time of Mr Diamond’s appointment and this question of what you were told in February make it difficult for us to trust what we’re hearing from the bank?

**Marcus Agius:** I am sorry. Say that again?

**Q598 Mr McFadden:** Do you accept that the different accounts that Mr Diamond has given us compared with the letter at the time of his appointment and the different account we have had of the February board meeting where the FSA expressed their concerns place a question mark over what we are hearing from the bank?

**Marcus Agius:** No, I think that is a leap too far.

**Q599 Mr McFadden:** Let me ask you a final thing. You as Chairman are responsible for the culture of the bank. You began your statement today with a piece of information about Mr Diamond forgoing his pay-off. I just want to get to the bottom of what Mr Mann asked you. In money terms, what does that mean he will be left with? You said that he is going to forgo £20 million. What will he walk away with?

**Marcus Agius:** The remainder of his annual salary: £1.35 million.

**Q600 Mr McFadden:** He will walk away with £1.35 million?

**Marcus Agius:** Well, or half of it.

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**Q601 Mr McFadden:** Remuneration has been extremely controversial in banks in general and Barclays in particular in recent years. You presided over one of the largest shareholder revolts in corporate history, with almost a third of shareholders voting against the remuneration report and the bonus that was awarded to Mr Diamond in the last round. It has been reported that Ms Carnwath, the chair of the remuneration committee, opposed the payment of Mr Diamond's £2.7 million bonus, but that you overruled her. Is that true?

**Marcus Agius:** I did not overrule her.

**Q602 Mr McFadden:** Did you disagree with her on the bonus?

**Marcus Agius:** Whenever we have discussions around the board, the expectation that everybody starts and ends with exactly the same position would be rather curious. I take pride in the fact that in our board colleagues are encouraged to express their views, and encouraged to explain why they hold that point of view, to encourage proper debate. That is one of the reasons why I believe we got a good chit from the FSA about the quality of our governance—because we do have that challenge. At the end of the day, what we seek to do and what we invariably do do under my Chairmanship is to reach a common position to which we all adhere.

**Q603 Mr McFadden:** Isn't it the case that she took the heat for this bonus, but you had actually overruled her in forcing it to be paid?

**Marcus Agius:** I did not overrule her. Categorically, I did not overrule her.

**Q604 Mr McFadden:** Simon Walker, the Director General of the Institute of Directors, has stated, "At the moment Barclays is paying three times more in bonuses to top executives as it pays in total dividends to all shareholders, which is basically the pensioners of this country." What do you think that says about the culture that you have presided over in Barclays?

**Marcus Agius:** With respect, I do not think it is a matter of culture. I think it is a question of trying to manage an extraordinarily difficult situation. First of all, it is almost impossible to overstate the shock to the financial services industry and indeed many other industries as well—

**Q605 Mr McFadden:** That is a different question from the balance of payment between—

**Marcus Agius:** I will come to it. Banks and many other industries went into the financial crisis with a level of pay that was competitive as between the various different companies that operated in each sector. As the situation has come up, we have tried very hard to manage compensation down. We have tried very hard to achieve a far better balance between the shareholders and between the employers, but there is a natural limit to how far we can go. If we reduce the payment of our people too fast, they leave—unattractive, but they leave. If we do not do it fast enough, our shareholders vote us out. We have to somehow strike that balance, and I do believe the

people who are best placed to make that judgment are the people sitting on the remuneration committee.

**Q606 Mr McFadden:** So give us the figures. In the last couple of years, how much has your share price reduced and how much has executive pay reduced?

**Marcus Agius:** I was talking about dividends as compared with compensation.

**Q607 Mr McFadden:** Do you feel that you have presided over an adequate balance between rewards for top executives and rewards for the people who have invested in your bank?

**Marcus Agius:** I believe that we have done as much as we could in the circumstances. I think we have a long way to go. I am completely sympathetic to the shareholders. They have had a rough deal in recent times; I could not agree with you more. But at the same time, the solution that everyone seems to put to people like me—"Yes, but why don't you just pay people less?"—is simplistic. If we could do that, we would think about it very carefully. What we have to do is manage the balance.

**Q608 Mr McFadden:** It is what the chair of the remuneration committee wanted to do when she opposed the £2.7 million bonus for the Chief Executive, isn't it? But she didn't get her way, did she?

**Marcus Agius:** She had a point of view and others had a point of view, and we ended up with a collective decision.

**Chair:** We may have to come back to this in a moment.

**Marcus Agius:** It is a very difficult area, Mr McFadden.

**Q609 John Mann:** Mr Agius, you just said to the Chairman that "tone from the top" is future-looking, but actually what your 18 April letter says is, "The Board and I took note of Andrew Bailey's comments in our February meeting and, while he specifically excluded Bob Diamond and Chris Lucas from his comments, it was clear that the 'tone from the top' is one of the FSA's concerns."

**Marcus Agius:** Yes, it was clear at the meeting that the tone from the top is a concern going forward.

**Q610 John Mann:** You are dancing on the pin of a head, Mr Agius.

**Marcus Agius:** Well, you are obliging me to.

**Q611 Mr Ruffley:** Mr Agius, for the benefit of the Committee and everyone watching, can you give us, in a sentence, the reason why Bob Diamond went?

**Marcus Agius:** He went because it became clear that he had lost the support of his regulators.

**Q612 Mr Ruffley:** And can you tell us in a sentence why you resigned?

**Marcus Agius:** I resigned because I felt responsible, as the ultimate keeper of the bank's reputation, that further action was taken. At that point, the alternative of seeking the resignation of Bob Diamond was something that our shareholders did not want to see,

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and we believed at that time that Bob Diamond continued to have the support of his regulators.

**Q613 Mr Ruffley:** Can we go back to this damning letter of 10 April? Far from it being an issue about “going forward”, which were the words you introduced, what Lord Turner says to you in the 10 April letter is, “I wished to bring to your attention our concerns about the cumulative impression created by a pattern of behaviour over the last few years.” When did you become Chairman?

**Marcus Agius:** 2007.

**Q614 Mr Ruffley:** So he is referring to the last few years, and that would include your tenure going all the way back to 2007. Now, we have had examples here read out already from this letter, but let me just remind everyone of the Protium deal. Lord Turner talks about a “convoluted attempt to portray a favourable accounting result”. In relation to the monoline CVA positions, it mentions “Barclays choosing valuations clearly at the aggressive end of the acceptable spectrum”. Then we get on to the reference that “Barclays was not fully transparent with us about the RWA impacts of a proposed extension of model approaches”. Then he goes on in relation to the protracted conversations, when you wanted to move index hedges of own credit from trading book to the banking book. Even though you did not get it resolved in your favour, you “continued to argue for capital optimisation”. Then in relation to the EBA stress tests, he refers to “the confusing and potentially misleading impression created by Barclays’ initial presentation of its position under the EBA stress tests”. Finally, for good measure, he talks about your tax strategy, and Lord Turner says, “The net impact has clearly been unfavourable to the degree of external trust in Barclays’s approach to issues such as tax, regulation and accounting.” All these things happened on your watch. Is that correct?

**Marcus Agius:** Correct.

**Q615 Mr Ruffley:** Have you ever received in your professional career in the City as damning a letter as that of any organisation you have either chaired or had a position of authority in?

**Marcus Agius:** This letter—

**Q616 Mr Ruffley:** No; have you had a letter as damning as this in your professional career?

**Marcus Agius:** I do not wish to be pedantic, but I do not regard this as damning. I regard this as a firm letter from our regulator.

**Q617 Mr Ruffley:** I read out those things at length for a particular reason. All this is public, Chairman, I trust, today: “not fully transparent”, “confusing and potentially misleading”, “unfavourable to the degree of external trust in Barclays’ approach to tax regulation”. You do not think that is damning? Is that what you want to come out of this hearing—that you are saying this is not a damning letter?

**Marcus Agius:** I think this is a very important letter and one we took very seriously.

**Q618 Mr Ruffley:** Have you had one of this character or worse in your professional career? That is all I am asking.

**Marcus Agius:** I have not had another letter similar to this.

**Chair:** It is so important this letter that the Chief Executive scarcely remembers it.

**Q619 Mr Ruffley:** When you said that you had a 20 or 30 minute discussion with Mr Diamond, can you remember what day that was?

**Marcus Agius:** Sorry, we had a 20 or 30 minute discussion at the board.

**Q620 Mr Ruffley:** No, when this FSA letter on 10 April was received by you—the “Dear Marcus” letter—what discussions did you have with Mr Diamond thereafter? What day and how long did it last?

**Marcus Agius:** I cannot remember what day it was, but I remember discussing it with him and with other relevant officials inside Barclays.

**Q621 Mr Ruffley:** And what did Mr Diamond say when you informed him of it? No doubt you gave him a copy of this letter, didn’t you?

**Marcus Agius:** I would certainly have given him a copy of this letter.

**Q622 Mr Ruffley:** You would or you did?

**Marcus Agius:** I would have.

**Q623 Mr Ruffley:** So he received it and, as the Chairman, you talked through with the Chief Executive the contents of this letter?

**Marcus Agius:** I cannot remember whether I sat down face to face with him.

**Q624 Mr Ruffley:** You cannot remember. Given this litany of poor performance and poor culture, what do you say to people who say you were not very good at your job, Mr Agius?

**Marcus Agius:** I say what I said earlier, which was—

**Q625 Mr Ruffley:** No, what do you say to people who say you were not very good at your job?

**Chair:** Give Mr Agius an opportunity to reply.

**Marcus Agius:** I say what I said earlier. A major part of our day-to-day preoccupation at the bank is our interaction with our regulator. They have a very important job to do. We understand that and we respect that, but they are not always right. They are not always right. Many times situations come up when we say, “Actually I don’t agree with your interpretation of that. I don’t agree with the extent of this or the extent of that.” How we push back, how we argue that subject, is absolutely responsible behaviour by our bank. If the consequence of all of this is that they say, “Hang on, you’re just going too far. It’s making our life very difficult; you need to recognise that,” that is a message we should receive and did receive.

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**Q626 Mr Ruffley:** So you think you were a good Chairman, not a poor Chairman. Is that what you are saying?

**Marcus Agius:** I think I responded to this letter in the appropriate fashion.

**Q627 Mr Ruffley:** Well, you are also not responding to very straightforward, binary questions. Finally, I think this Committee is owed an explanation. I am going to have one final go. If you look at the transcript at page four, question 15, we are talking about the February board meeting. Mr Diamond says of the contents of that meeting, when the FSA attended the board, “The context of the discussion when it got to controls, which I think is what you are asking about—I should call it the control environment—was that the focus and the tone at the top was something that they were specifically happy with.” Can you hold that in your mind for a minute, Mr Agius? Then can you look at your letter of 18 April, where of the February meeting—so we are talking about the same thing; would you agree with that?—you say, “While he”, that is Mr Bailey of the FSA, “specifically excluded Bob Diamond and Chris Lucas from his comments, it was clear that ‘tone from the top’ is one of the FSA’s concerns.” On the basis of that, would you say that Mr Diamond lied to this Committee?

**Marcus Agius:** I cannot comment on Mr Diamond’s testimony.

**Q628 Mr Ruffley:** Would you say, given those two statements, which contradict one another in words of pretty much one syllable—and we do not want to talk about future tenses or going forward, which is what you tried to introduce before, laughably I think—that those are two sets of statements on the record and one of them is untruthful. I ask you again: did Mr Diamond lie to the Treasury Select Committee?

**Marcus Agius:** I am not going to speak to Mr Diamond’s testimony.

**Q629 Mr Ruffley:** So you are not defending him?

**Marcus Agius:** I am not going to speak to his testimony.

**Q630 Mr Ruffley:** Finally, do you think those two statements can be reconciled.

**Marcus Agius:** I think in the way I described before, about taking the reference in my letter to talk about the importance of tone at the top being something that continues.

**Q631 Mr Ruffley:** My final question: under your Chairmanship a great British bank has been dragged through the mud. Are you ashamed of that?

**Marcus Agius:** I regret deeply what has happened to Barclays and I have said in my resignation letter I am truly sorry.

**Q632 Chair:** I think we have had a very frank answer to that question. Can I just come back for a moment to Mr Diamond’s resignation? In the days prior to that, did you have any conversations about Mr Diamond’s position with the Governor of the Bank of England?

**Marcus Agius:** Yes.

**Q633 Chair:** And what did the Governor say?

**Marcus Agius:** When I had made my decision on Saturday night to resign, I felt it polite and appropriate to make sure the Bank of England, the Treasury and the FSA were aware ahead of the announcement. I tried to speak to Lord Turner on Sunday, but failed. Messages were put out to both the Chancellor’s office and the Governor of the Bank of England. On Monday morning I received a notification that the Chancellor wished to see me and Sir Michael Rake in the evening. Sir Michael Rake was until Sunday night the senior independent director of the bank and upon my resignation had been appointed as deputy Chairman.

**Q634 Chair:** You said the Chancellor there.

**Marcus Agius:** I am so sorry. I meant the Governor.

**Q635 Chair:** Okay, just trying to clarify.

**Marcus Agius:** Yes, I know. That was a complete mis-statement, sorry. The Governor of the Bank of England wished to see us at six o’clock and we went to see him. The two of us had a conversation with him, in which it was made very plain to us that Bob Diamond no longer enjoyed the support of his regulators. The Governor was very careful to say that he had no power to direct us, but he felt that this was sufficiently important, as indeed it was, for us to be told in absolute terms what the situation was. As you can imagine, this statement was a shock to us, because only two working days beforehand we had released the announcement following the settlement with the three agencies, one of whom was the FSA, where the FSA had said nothing about the suitability or the unsuitability of Bob Diamond as Chief Executive, or indeed any of the other senior executives. We went from Wednesday, when Bob Diamond had the support of the regulators, to Monday night, when we were told in no uncertain terms that he did not have support of the regulators.

**Q636 Chair:** What had happened between the Wednesday and the following weekend?

**Marcus Agius:** Clearly what had happened was the public outcry had been far greater than we had thought. My own resignation, which I had sought to offer in order to alleviate some of the pressure, was inadequate and, clearly, the regulators decided more was necessary.

**Q637 Chair:** And then you had a conversation with Mr Diamond?

**Marcus Agius:** No, I had a conversation with my board.

**Q638 Chair:** And then after you had had a conversation with your board?

**Marcus Agius:** I had a conversation with my board, who were not in a happy place, as you can imagine.

**Q639 Chair:** Was this just the non-executives or the whole board?

**Marcus Agius:** Just the non-executives. We had a telephonic board meeting, at which we discussed what had happened, and I was obviously glad that Mike Rake had been there because it was such an important

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message. I would not want anyone to fear I might have misinterpreted it, not that it was capable of being misinterpreted. We reported to our board where it was, and we concluded that we had no choice but to call for his resignation, and we then spent some time trying to decide how we were going to cope with the management of the bank since we were going to have to make an announcement at seven o'clock the next morning. Within 12 hours of receiving this declaration, we had to put in place contingent measures—not an easy thing to do and not a comfortable thing to do—but we did that.

Following that, I had a further conversation with the Governor, because the last thing I wanted to do was to find that we had decided that the contingent arrangements were *x* and that they were not satisfactory to the authorities. That would have been very grave. I went back to the Governor and told him what we were planning to do, and he said that would be perfectly satisfactory. I said, for the sake of our own comfort, that I wanted to have a separate conversation with the FSA, and so I did. I spoke to Andrew Bailey, who was aware of the conversation that we had had with the Governor and who also expressed satisfaction with the proposed arrangements that we were planning to put in place. Then Mike Rake and I called on Bob Diamond.

**Q640 Chair:** And you asked for Mr Diamond's resignation?

**Marcus Agius:** No, we explained what had happened, and he was not in a good place, as you can imagine.

**Q641 Chair:** You were handing him a loaded revolver, weren't you?

**Marcus Agius:** Well, the conversation was not long. He asked for time to talk to his family and we left confident that, if he had not already made the decision, he would make the right decision.

**Q642 Chair:** What you have described is direct exercise of considerable regulatory authority and, effectively, for a brief while the taking over of the top of the Barclays management structure by the Bank of England. You felt the need to clarify the arrangements you had put in place with him to ensure they were going to meet with his approval.

**Marcus Agius:** The Governor made it perfectly clear that any decision would be taken by the board or by Bob Diamond individually, but it would have been foolish in the extreme of us not to have referred back to him with our interim proposals. That would have been taking a risk that would have been unwise.

**Chair:** Thank you very much for that clarification.

**Q643 Mr Love:** The FSA final notice shows that Barclays first started submitting falsified LIBOR submissions in September 2007, as you will be aware. When did you first become aware of this practice?

**Marcus Agius:** I first became aware that there was an investigation in April 2010.

**Q644 Mr Love:** The report of the FSA says, "Senior management at high levels within Barclays expressed concerns about this negative publicity. Senior

management's concerns in turn resulted in instructions being given by less senior managers to Barclays' Submitters." Who were those senior managers and when did they alert you to this practice?

**Marcus Agius:** As I said, I was notified first that there was an investigation, and that was the first I heard of any of these practices or the possibility of any of these practices, in April 2010. I do not know who those senior managers were.

**Q645 Mr Love:** The report goes on to say, "Barclays determined its LIBOR submissions whilst taking senior management's concerns about negative media comment into account." There is constant referral to senior managers. Are you telling me that there was no indication from senior management to the board at any time that this practice was going on?

**Marcus Agius:** The preoccupation of the board and the executive directors at that time was the condition of the funding markets. The specific items related to LIBOR were not discussed because the central issue was whether or not we were able to achieve funding in the markets, and we did. We did and that was highly important.

**Q646 Mr Love:** There was a report at the weekend from a whistleblower former senior manager in Barclays saying that any important decisions were always, on every occasion, escalated up the line. People had to be responsible to the layer above them. That would indicate that those senior managers would have sought a signal from the very top of the organisation. Are you saying that that did not operate in these circumstances?

**Marcus Agius:** It did not come up to the board.

**Q647 Mr Love:** It did not come up to the board at any time?

**Marcus Agius:** It did not come up to the board.

**Q648 Mr Love:** It has been a constant source of astonishment at this Committee that, for such an important benchmark for Barclays Bank, this sort of activity would not be known of both by the management at the most senior level and the board of directors? Are you telling me that that is the case—that the board knew nothing of this whatsoever until you found out about the investigation?

**Marcus Agius:** I cannot excuse the behaviours to which you are referring, but I can seek to explain them, if you would like me to do so.

**Mr Love:** Please.

**Marcus Agius:** In any bank, as well as the people who do the business, you have people who control and manage what is called the compliance function. The compliance function is there to ensure that the bank acts at all times within the regulatory constraints under which it is due to operate. It is not a practical proposition that every single individual is monitored at every single minute of his or her working day. That is simply not practical. What happens is that compliance is constructed around areas where risk is perceived to lie, and the riskier the area of the bank or the activity, the greater the levels of compliance and oversight.



For many years, the activities of the LIBOR market were seen to be low-risk because the passage of the LIBOR rate was very constant, the spreads were very narrow and very little happened. Separately, because of the way the LIBOR rate is struck—with 16 banks submitting, the top four taken off, the bottom four taken off and an average taken—the chances of anybody manipulating the rate successfully were deemed to be very low. As we heard yesterday from other testimony, as the credit crisis occurred, the behaviour of LIBOR departed from its historic patterns and, evidently, that led to an opportunity for risk and for people to take advantage of that.

We should have changed our compliance in recognition of that. We were behind the curve and that is most unfortunate, but it explains why these things were allowed to happen, why they were not detected and why more attention was not brought to our level at an earlier stage. It does not excuse any of it, but I seek to give an explanation as to what happened.

**Q649 Mr Love:** Let me just take that explanation. Mr Diamond, in his evidence to us, told us that he was continuously trying to alert others in important positions to the fact that other banks were manipulating LIBOR and that was the occasion for weakness on behalf of Barclays. Did it never occur to people at Barclays, particularly the board of directors, that if that were true—that banks were manipulating LIBOR—that would apply just as much, perhaps even more, to Barclays because it was an outlier in this regard? Did that never occur to the board? Were you being naïve in not thinking that that might be the case?

**Marcus Agius:** The concern that we had was not so much about the actions of LIBOR as such, because that was indicative of the underlying situation. The concern we had was that, because our submissions were high, people might falsely or incorrectly conclude that we were having more trouble funding than we actually were. And again, to put this into context, anybody who was not on the bridge of a bank during the financial crisis—and many others besides—who says it was not terrifying was not there. These were very difficult times and we were very nervous that we may be misinterpreted by the market as to our financial strength. We monitored it—and I know I did not, because it is not my job—and I know from many conversations I had with John Varley, with Chris Lucas and other people inside the bank that we were watching the funding markets like a hawk, as we should have done.

**Q650 Mr Love:** Let me just take those facts you have just said: you were watching the markets like a hawk, and you were terribly concerned about the level of turbulence—and we do understand that, as it was a significant part of the evidence that we received yesterday. Did it not occur to anyone that one of the ways in which you could ease the situation for Barclays in that particular context was by manipulating LIBOR submissions on—

**Marcus Agius:** That was not a consideration.

**Q651 Mr Love:** I am not suggesting for a moment that you thought this was true, but you may well have had a conversation that went, “This could be possible. Can we make sure that we are submitting accurate results to LIBOR and the BBA?”

**Marcus Agius:** As I said, our greater concern was what was actually happening rather than the technicalities of LIBOR submissions.

**Q652 Mr Love:** Can I just return to something you said earlier on in relation to the sequence of events leading to the resignation of Mr Diamond? The FSA Final Notice was published on 27 June, but he did not resign until the following Tuesday, 3 July. What I really wanted to ask you is why he retained the confidence of the board, considering the serious nature of what was contained in the FSA report. You said that you received market signals that they wished to retain Mr Diamond and that shareholders were convinced he needed to lead the bank. Perhaps you could tell us what happened to the share price between Wednesday 27 June and Tuesday 3 July in those circumstances?

**Marcus Agius:** The share price came off, particularly on Friday, because of concerns about the further risk that might ensue from civil litigation. It fell.

**Q653 Mr Love:** You mentioned the clamour that there was around the fact that Barclays had been found guilty by these three regulatory authorities, and that that was putting pressure on the board and Mr Diamond. Don't you accept that that clamour also extended to the markets, which reflected that in your share price? Wouldn't there have been some concern from shareholders that already low share prices for banks were being squeezed even further by these events? How can you use those particular parts of the City institutions as a defence for the bank's decision?

**Marcus Agius:** It is not a defence; it is an explanation. What happened, as we all are in complete common agreement on, was abhorrent and should not have happened. Barclays, when it was first told about the inquiries, co-operated with them. As the inquiries evidently became more serious, our degree of co-operation increased. No one could have co-operated more. We spent as a bank more than £100 million in checking emails and translating Japanese, and so on and so forth. We could not have done more, and that is acknowledged in the submissions of the agencies.

Once we got to the point of settlement, we also recognised that we would have first-mover disadvantage. We could have dragged our heels; that would not have been right. We feel we did the right thing. The actions that happened were unknown to our Chief Executive. He played no part in it at all; he had no culpability. In those circumstances, particularly given that one of the agencies investigating this situation was the FSA itself, and which raised no concern in this respect, what we had to determine—and it was not easy—was what was the right reaction for the board to have.

As I said more than once, we rate highly Mr Diamond's talents as a banker. The achievements that he has had in his 16 years at Barclays are remarkable. The shareholders share that view, and indeed that was

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fed back to us through our stockbroker on Friday. I am not seeking to hide behind it, but if we do not listen to the views of our shareholders, then we are not doing our job as a board. That is why, when we got to the end of that week, we were in a very difficult position. We had tried to show that we accepted responsibility.

**Q654 Mr Love:** Don't you accept that the bank was totally out of touch? It took a meeting with the Governor of the Bank of England to get you to do the right thing. You say that Mr Diamond was totally innocent; Mr Diamond was at the top of an organisation that was proven by the FSA and others to have manipulated LIBOR submissions. If he did not know that this was going on, then that shows that he was incompetent as a manager. If he did know, then you should have taken the right decision as a board. Don't you accept any of those criticisms?

**Marcus Agius:** If you look at the consequences of the enormous inquiry that went on, it becomes clear that the only incidence of impropriety was what has been set out in the inquiry. It was not widespread. It was isolated and localised. Things happen in every organisation that should not happen. That is unfortunate and is absolutely reprehensible, but it cannot be denied that these things do happen. It seems to me what is important is how you react when you discover these things. We reacted, as I said, by co-operating with the authorities, by paying the fine, and by seeking for the senior executives to show responsibility. We felt that our response was proportionate.

What we did get wrong, quite clearly, was the extent of the public opprobrium that then ensued. That took us by surprise; I am quite prepared to accept that. More was needed, and that is why we held a board meeting on the Friday night, not to hear what the view of the media was but what the view of our owners, our shareholders, was. The view of our owners was that the outcome they did not want was for Bob Diamond to go. That is when I tendered my resignation.

**Q655 Mr Love:** That is not reflected in the share price. It does seem to me that what you are saying to us is that everyone else is wrong and the board was right. Yet you had to have the Governor of the Bank of England tell you what the appropriate thing was to do. Can I ask one final question?

**Chair:** One very quick question. Sorry, Mr Love—Mr Agius wants to add something.

**Mr Love:** Yes, of course. I do apologise.

**Marcus Agius:** No need for that. At the time we made the announcement on that Wednesday, we made it in the full knowledge that the FSA knew all the facts and that, if they had at that stage had any concerns about the senior management of our bank, they could not have possibly let that announcement go out without saying something. They did not. We relied on that. The attitude of the regulatory authorities changed between Wednesday and Monday.

**Q656 Mr Love:** Let me ask one final question. You indicated earlier on that the only remuneration that Mr

Diamond would receive would be that proportion of his annual salary, something under £1 million. I understand that if we take pensions and benefits and all other additions, then we are talking about a sum probably in excess of £2 million. Can you just confirm to the best of your knowledge exactly what Mr Diamond will receive?

**Marcus Agius:** I have been guided by my colleague, and I may have misspoken earlier. He will get 12 months' pay and a cash payment in lieu of pension, which comes to around £2 million. If I may, Mr Diamond has volunteered to resign and Mr Diamond has volunteered to give up his entitlements that were otherwise due to him. As I have said already, he is someone who is well thought of by the shareholders, and many of our clients think well of him too. It is very important that we are able to access him to manage any relationships going forward that seem important where it is appropriate for him to do so.

**Q657 Chair:** I just want to clarify one other point that you gave in answer to me a moment ago, which was clear and helpful, with respect to the sequence of events leading to Mr Diamond's resignation. You told me that you discussed your conversation with the Governor with Mr Diamond.

**Marcus Agius:** I reported to him when I called on him at his house with Mike Rake.

**Q658 Chair:** Just to be clear—you told him that you had had a conversation.

**Marcus Agius:** Yes.

**Q659 Chair:** That you had discussed this with the Governor.

**Marcus Agius:** Yes, that evening.

**Q660 Chair:** Could you take a look at question seven in the evidence that we took from Mr Diamond? If you look at his reply, he said, "I think it is as simple as this. If Marcus had conversations with regulators, that is a conversation for him to have with you. I did not discuss that with him."

**Marcus Agius:** Yes, but the question before talks about "any conversations with regulators over the weekend". I did not have any conversations with regulators over the weekend.

**Q661 Chair:** You had a discussion with the Governor, didn't you?

**Marcus Agius:** Not over the weekend.

**Q662 Chair:** So you think that Bob Diamond was picking up on the phrase "over the weekend"?

**Marcus Agius:** I can't speak for Mr Diamond, but as I read that, he says, "I am trying to think if I had any conversations with regulators over the weekend."

**Q663 Chair:** Do you think that a reasonable Parliamentary Committee might consider that reply a little misleading?

**Marcus Agius:** I am not seeking to mislead you.

**Q664 Chair:** You are not. Not your reply—the reply that we had at question seven.

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**Marcus Agius:** I can't speak to what Mr Diamond said, but what I told you happened.

**Chair:** It will look to us and, frankly, it will look to everybody listening, like another example of a complete lack of candour to Parliament by the Chief Executive of Barclays.

**Q665 Stewart Hosie:** You said a couple of interesting things, Mr Agius. You said in relation to Bob Diamond you might want to access him in the future to manage relationships, I think.

**Marcus Agius:** Yes, possibly.

**Q666 Stewart Hosie:** Does that mean that having been at the helm of a bank found guilty of rigging LIBOR, you are going to bring him back as a consultant?

**Marcus Agius:** With respect, he was not found guilty of rigging LIBOR.

**Q667 Stewart Hosie:** The bank was clearly found guilty of rigging LIBOR. That is what the FSA Final Notice says. You describe that as reprehensible, the same terminology Mr Diamond used.

**Marcus Agius:** I could use stronger language if you would prefer.

**Q668 Stewart Hosie:** No, that is strong enough. You also said it was local and isolated. It went on for three and a half years. That is what the FSA have found: from January 2005 until July 2008 it says in the Final Notice. Are the people in Barclays in denial of the scale of this?

**Marcus Agius:** No, not in denial of the scale of it, because although it went on for a long period of time, it was undetected. It should have been detected and should never have happened in the first place—all of that is absolutely clear—but it was not endemic across the whole bank. It was isolated in one area that was under-monitored, for reasons I have tried to explain beforehand. That does not excuse it. I am trying to explain why it happened.

**Q669 Stewart Hosie:** Thank you for that. What we have been told throughout, though, is that Barclays were able to identify this manipulation in the LIBOR rates from other banks posting or making submissions that they would not have been able to borrow, if indeed they had been able to borrow at all. Did it never occur to you, the board or to senior management that you should look under the bonnet in Barclays to find out if it was happening in the bank?

**Marcus Agius:** It did not occur to us. As I said, our principal concern was the state of the funding market rather than the operation of the LIBOR market as a technical matter.

**Q670 Stewart Hosie:** I understand that was a concern. The context, as people say, was the middle of a crisis. We all understand that. If, in the context of a crisis, your colleagues were identifying LIBOR rates from other banks that were clearly wrong, and which may yet be investigated, why did it not dawn on anyone to ask within the bank?

**Marcus Agius:** If your question is whether we should have asked those questions, evidently we should have done, but as I said at the time we were more preoccupied—we were at a moment of existential risk.

**Q671 Stewart Hosie:** I am at a loss. I am trying to understand what is going on culturally within the bank. Given that Barclays are identifying this elsewhere, did the chair of the audit committee not say, "Perhaps we should look at this area?" Did the people responsible for your compliance procedures not say, "Perhaps we should look at this area?" Did the people responsible for the training of your desk supervisors not come up their management chain and say, "Perhaps we should strengthen there." It just seems inconceivable that, when this has been recognised throughout the industry from within Barclays, no one sought to ask. That is extremely hard to believe.

**Marcus Agius:** As I said, the concern was not as to whether or not other banks may have been manipulating the rates or seeking to manipulate the rates. That was not the point. The point was that the market appeared to be malfunctioning, for whatever reason, and we heard yesterday in the testimony of Mr Tucker there may be other explanations as to why the market was malfunctioning. It does not really matter. What mattered was it left us looking exposed because our rates were higher. That was our principal area of concern. Our concern was that that might be misinterpreted by the market as implying that we were having more difficulty funding than we were.

**Q672 Stewart Hosie:** Therefore, it would have suited Barclays in terms of managing reputational damage for your LIBOR to be lower to be within the pack.

**Marcus Agius:** Yes, and clearly that decision was taken by people at a certain level, but it was at a level that did not come up to the board.

**Q673 Stewart Hosie:** So who would have taken that decision then?

**Marcus Agius:** I don't know.

**Q674 Stewart Hosie:** So the Chairman didn't know, the Chief Executive didn't know and Mr del Missier has gone since, having misinterpreted—

**Marcus Agius:** That was in respect of a different part of the drama.

**Q675 Stewart Hosie:** Indeed. So somewhere someone is giving an instruction to manage the reputation of Barclays by lowering LIBOR submissions and no one in charge of the bank knows anything about it.

**Marcus Agius:** Yes.

**Q676 Stewart Hosie:** Can I ask, Mr Agius—you do understand how difficult the public will find it to believe that?

**Marcus Agius:** Yes, I do. It should not have happened.

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**Q677 Stewart Hosie:** On this issue of other banks manipulating LIBOR, when did you first become aware that might be an issue?

**Marcus Agius:** As the investigation progressed. As I said, I was first made aware of the investigation proper in April 2010. It was then raised with our audit committee. Sir Mike Rake, who was chairman of the audit committee, was also informed at the same time as I was at the next regular meeting of the audit committee. It was also raised at the next meeting of the board, but at that stage, you misunderstand: our knowledge of what it all meant was quite limited, because as the investigation went on, more and more was discovered. Indeed, the intensity of the discovery and the intensity of the investigation increased quite sharply as we moved further through time.

**Q678 Stewart Hosie:** Although the bank was identifying rates that were clearly wrong in other banks, during the crisis in 2008 you were not aware of that issue or what anyone else in Barclays thought about that until the investigation started in 2010.

**Marcus Agius:** Correct.

**Q679 Stewart Hosie:** It sounds dysfunctional that such an important piece of information about an essential part of the banking infrastructure would not have been communicated to you, even in the general sense that there might be a problem with LIBOR.

**Marcus Agius:** We did not believe at that stage that there was a problem with what we were doing with LIBOR.

**Q680 Stewart Hosie:** Can I just go back a little with a final question? We were told by Bob Diamond that when the Paul Tucker phone call happened, and we have the file note, about discussions with people in Whitehall, he said he got in touch with John Varley, assuming the bank might be nationalised and asked John to speak to people in Whitehall. Did you ever discuss with John Varley what he may or may not be saying to people in Whitehall as a result of those conversations?

**Chair:** We will have to make this the last question.

**Marcus Agius:** I was not aware of that note or that that conversation had taken place with Paul Tucker until quite recently. Did I talk to John Varley about our anxieties about our funding and its perception? Yes, I did. Did I talk to him in detail about whether he had spoken to this Minister or this official? No, I did not. I had a lot of confidence in his ability to manage it and indeed that confidence, as history will show, was well founded.

**Q681 Michael Fallon:** Just coming back to the remuneration, could you just be clear whether Mr Diamond is getting any kind of pension enhancement or is he leaving simply with his accrued rights?

**Marcus Agius:** No, he never has had a pension. He has received a cash payment annually instead of pension, and he is receiving a final one of those.

**Q682 Michael Fallon:** So there is no enhancement?

**Marcus Agius:** No.

**Q683 Michael Fallon:** Just coming back now to the period of October 2008, were you aware of the Government's concern about Barclays' LIBOR submissions at this time?

**Marcus Agius:** No.

**Q684 Michael Fallon:** You had no conversations with any of these officials or anybody involved in the Government about LIBOR submissions?

**Marcus Agius:** No.

**Q685 Michael Fallon:** And Mr Diamond did not tell you about his discussions with the Bank of England?

**Marcus Agius:** No.

**Q686 Michael Fallon:** When did you first see the file note of this conversation?

**Marcus Agius:** I knew of its existence, I would think, probably either early this year or towards the end of last year.

**Q687 Michael Fallon:** One of the things that Mr Diamond explained back to Mr Tucker during the phone call was his concern that other banks were low-balling their LIBOR submissions, yet he told us at question 88 that he was unaware that his own staff—your own staff—were actually in dialogue with the FSA, and indeed with the BBA, which you are involved with, on this very issue.

**Marcus Agius:** Yes.

**Q688 Michael Fallon:** Isn't that rather odd?

**Marcus Agius:** If that is what he says.

**Q689 Michael Fallon:** Doesn't that strike you as rather odd?

**Marcus Agius:** The fact is that he was unaware, as indeed the board was unaware, that some of our people were doing this low-balling, to use your expression. That is a fact. What was of concern to him, even in ignorance of that other matter, was that the operation of the LIBOR market was drawing attention to Barclays and to the rates it was submitting, and we were running the risk, therefore, that we might be seen to be having more trouble with our funding than was in fact the case.

**Q690 Michael Fallon:** And you were not aware of these concerns from your other responsibilities at the BBA?

**Marcus Agius:** I was not on the BBA then.

**Q691 Michael Fallon:** You were not there then. I see. If Mr Diamond was worried enough to tell Mr Tucker this, why didn't he tell you?

**Marcus Agius:** That's a question for him. I would imagine, Chairman, there must have been many conversations taking place at this time. As we heard yesterday, the atmosphere was febrile. Everybody was very skittish indeed. It was very difficult.

**Q692 Michael Fallon:** If you were concerned, as you have just told us, that the bank's funding position should not be misinterpreted, and you were concerned about that, why weren't you involved with Mr

Diamond in telling your staff to get involved with the regulatory authorities as a matter of urgency?

**Marcus Agius:** For two reasons. One is I know there were many conversations, not all of which would have been reported to me. Separately because, for the avoidance of doubt—and maybe I should have made the point earlier—there is of course a distinction between what the board does and what the executive does. The executive is there to run the bank. The board does not run the bank. I stayed unusually connected with the senior management because of my concerns, but I did not make any executive decisions. That was not my job.

**Q693 Michael Fallon:** Were you as surprised as we were that, first, Mr Tucker's phone call seemed to have been misinterpreted by Mr Diamond, and then within 24 hours Mr Diamond's note of the conversation seems to have been misinterpreted again by Mr del Missier?

**Marcus Agius:** I was not party to that exchange at all. My view is no better or worse than anybody else's.

**Q694 Michael Fallon:** Do you not find it rather odd that these two misinterpretations should have taken place?

**Marcus Agius:** I only know what is on the record.

**Q695 Michael Fallon:** How often did Mr Diamond and Mr del Missier meet?

**Marcus Agius:** I imagine they met frequently. I know they met frequently.

**Q696 Michael Fallon:** You do not find it odd that they did not properly discuss this?

**Marcus Agius:** As I said, I have no knowledge of that exchange. My judgment on that is no different from or better than yours.

**Q697 Michael Fallon:** What do you think it says about your senior management team that instructions to manipulate LIBOR were not actually questioned?

**Marcus Agius:** Again, I was not party to that conversation.

**Q698 Michael Fallon:** No, but what do you think it says about your senior management team that the culture was such that nobody actually questioned it or approached the board, the compliance officers, the chairman of audit or whatever about it?

**Marcus Agius:** The only comment I can make is that such a situation must reflect the extraordinary circumstances that existed at that time.

**Q699 Michael Fallon:** So you think it is excusable?

**Marcus Agius:** That does not make it right, but I am seeking for an explanation not an excuse. You can ask me these questions, but as I said, I—

**Q700 Michael Fallon:** I am going to ask you these questions.

**Marcus Agius:** Yes.

**Q701 Michael Fallon:** But I am not getting an answer.

**Marcus Agius:** Repeat your question please.

**Q702 Michael Fallon:** The question is: what does it say about your senior management team that in the end an instruction to manipulate LIBOR was not questioned?

**Marcus Agius:** You are seeking to put me in Mr del Missier's shoes, which I do not think is right.

**Q703 Michael Fallon:** But you have overall responsibility for the culture of the bank. That is why you have resigned. Is there not something odd about the culture of the bank that nobody actually questioned this kind of instruction?

**Marcus Agius:** I think it reflects the extraordinary times that existed then.

**Q704 Michael Fallon:** It does not reflect your procedures?

**Marcus Agius:** No, of course not.

**Q705 Michael Fallon:** Or your compliance or your audit procedures?

**Marcus Agius:** Of course not.

**Q706 Michael Fallon:** Or the non-executives' role on the board?

**Marcus Agius:** It is as recorded. That is not behaviour that would be in the normal course. Of course it is not.

**Q707 Michael Fallon:** But you said subsequently, I think in earlier evidence, that you needed to take steps to strengthen compliance as a result of all this.

**Marcus Agius:** Yes.

**Q708 Michael Fallon:** So there must have been some weakness of procedures.

**Marcus Agius:** It became weak because the risk grew. They were appropriate for when the risk was negligible. As the risk grew, so the procedures needed to grow with it. They did not grow fast enough. That is evidently the case.

**Q709 Michael Fallon:** Was the LIBOR issue ever discussed at all at a board meeting?

**Marcus Agius:** No.

**Michael Fallon:** Thank you.

**Q710 Teresa Pearce:** You have talked us through the events of 27 June to 3 July, and you mentioned you had a telephonic conversation with non-executive board members.

**Marcus Agius:** I had two.

**Q711 Teresa Pearce:** Were they recorded?

**Marcus Agius:** No.

**Q712 Teresa Pearce:** You were the first person to resign, and you said earlier that you knew that the shareholders did not want the removal of Bob Diamond. Is it that you offered yourself up to save Bob Diamond?

**Marcus Agius:** No, I did not offer myself to save Bob Diamond. I was faced with a very difficult dilemma. I was faced with a situation where Barclays believed

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they had behaved properly in pursuing the inquiry—they believed they had paid the fines that were due to be paid, that they were going to pursue the people who had done wrong, and that there was a degree of responsibility shown by the senior executives—but it was not enough. What further options did we have? Clearly, one option would have been for Mr Diamond to go, but it was made very clear to us by our stockbroker that that was the outcome our shareholders, our owners, did not wish to see. In those circumstances, I thought it better to offer myself.

**Q713 Teresa Pearce:** But what research did your stockbrokers do with your shareholders to give that decision? They surely could not have had a shareholders' meeting or actually canvassed the opinion of every shareholder.

**Marcus Agius:** No, they did not.

**Q714 Teresa Pearce:** They were just expressing a view.

**Marcus Agius:** They were expressing an informed view. The job of a corporate stockbroker is to be close enough, both to the company and to its principal shareholders, that they understand how the shareholders view the company at any point in time.

**Q715 Teresa Pearce:** Given that we have heard that the compliance section did not know what was happening, the board did not know what was happening and Bob Diamond did not know what was happening, would you accept that any report given to shareholders would not have been a full view of how Barclays was operating? The shareholders had in fact made decisions at shareholders' meetings without full information.

**Marcus Agius:** Ms Pearce, I would not accept that because the discussion with the stockbroker that I am referring to took place on Friday night, by which time the full transcripts of all the findings of the three agencies had been published. That information was in the public domain.

**Q716 Teresa Pearce:** I accept what you are saying about the Friday night, but at previous Barclays shareholders' meetings, they would not have known what was going on in Barclays. Yet they had to make decisions about remuneration. Surely that is not right.

**Marcus Agius:** I think Mr Rumsfeld had some views on things like this. You do not know what you do not know, I am afraid.

**Q717 Teresa Pearce:** Exactly. Could we just move on? You told us that you had a conversation with Mr Diamond and he was given time to talk to his family, and he came back and he resigned. Had he not resigned, would you have sacked him?

**Marcus Agius:** As I said, when we left his house I did not know whether he had already resigned or whether he decided to resign after we had told him what we told him. I do not know, because we hardly exchanged any words.

**Q718 Teresa Pearce:** But had he not resigned, is it your view that the board would have sacked him?

**Marcus Agius:** That is a hypothetical question. I left his house confident that he would resign, if he had not done so already. You can imagine it was a busy night. I came back from the Head Office and we had myriad practical things to do. During the course of the evening there were discussions between Bob Diamond, his lawyers and our lawyers, and the terms of the announcement were settled.

**Q719 Teresa Pearce:** You mentioned earlier that he gets 12 months' pay. Does he have a 12-month notice period in his contract?

**Marcus Agius:** He has a six-month notice period in his contract.

**Q720 Teresa Pearce:** But he is getting 12 months' pay?

**Marcus Agius:** He is getting 12 months.

**Q721 Teresa Pearce:** Is he working his notice? Is he on gardening leave or did he leave immediately?

**Marcus Agius:** He is going to make himself available.

**Q722 Teresa Pearce:** So he is on gardening leave.

**Marcus Agius:** I do not know how you define gardening leave.

**Q723 Teresa Pearce:** If you look at his contract and he has a six-month notice period, he either gives six months' notice or he breaks his contract and leaves immediately, in which case he is not entitled to any notice pay, so he must be on gardening leave.

**Marcus Agius:** If that is what you want to call it. What is more important to us is that, as I said, he has volunteered to go; he has volunteered to give up his money.

**Q724 Teresa Pearce:** He has a six-month notice period, but he is getting 12 months, so he is getting an enhanced notice.

**Marcus Agius:** We want to retain such goodwill as we can retain with him in the circumstances in order that the bank is not disadvantaged as a result of his having left in these circumstances. What I tried to convey to you earlier is that his going in this way is not something that meets with universal approval by all constituencies.

**Q725 Teresa Pearce:** So he is getting double the notice period that he is entitled to. He is getting 12 months, not six.

**Marcus Agius:** He is getting 12 months.

**Q726 Teresa Pearce:** You mentioned April 2010 was when you first knew about this. A voluntary disclosure was made to the FSA. Was that not approved prior to that with the board? You have said that the board did not know about LIBOR, but surely a voluntary disclosure to a regulator is serious enough. It has resulted in fines, £100 million of costs, resignations of senior people and possible criminal charges, but it was never reported to the board.

**Marcus Agius:** The facts are as they have been stated.

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**Q727 Teresa Pearce:** What does the board do if it does not monitor and is not told of such serious things?

**Marcus Agius:** To be clear, in April 2010 the seriousness of—

**Q728 Teresa Pearce:** But it was a voluntary disclosure. £100 million of fees were incurred—

**Marcus Agius:** Not in April 2010.

**Teresa Pearce:** Eventually, but at no point was this—

**Marcus Agius:** Eventually but, as I said, if you will forgive me, the intensity of the inquiry, the seriousness of the events that took place and the extent of our co-operation all escalated from April 2010 onwards. At that point, we were alerted that there was a problem, but it was not, at that stage, known to be as serious a problem as it subsequently came to be seen to be.

**Q729 Teresa Pearce:** One of the responsibilities of the British Bankers' Association is to monitor LIBOR. Is that correct?

**Marcus Agius:** The British Bankers' Association owns a company called LIBOR Ltd. LIBOR Ltd is the organisation that operates LIBOR. Although it is wholly owned by the British Bankers' Association, it is under separate and distinct governance. It has its own board of directors, and the board of the BBA has no influence over it.

**Q730 Teresa Pearce:** But the BBA is responsible for monitoring LIBOR. According to the letter to me in March, they have said, "All submissions by contributors are monitored by the BBA."

**Marcus Agius:** If that is what the letter said.

**Q731 Teresa Pearce:** When you accepted your role as Chair of the BBA, you knew your bank was under investigation for manipulating LIBOR.

**Marcus Agius:** I did, yes.

**Q732 Teresa Pearce:** Did you have conversations with them about that? Did you think it was appropriate to chair the BBA?

**Marcus Agius:** No, because the existence of the inquiry was widely known. It was known to the BBA.

**Q733 Teresa Pearce:** Your own bank was under investigation for manipulation.

**Marcus Agius:** As were many others.

**Q734 Teresa Pearce:** Your own bank was under investigation for manipulating LIBOR and the BBA is responsible for monitoring it, and you accepted the role of Chair. Did you not see that as a conflict?

**Marcus Agius:** It would be a conflict if there was any direct active involvement or direction given by the BBA board to LIBOR, which is not the case.

**Q735 Chair:** You are distinguishing between this independent company, which is a company that is wholly independent of the BBA.

**Marcus Agius:** Yes, I am.

**Q736 Chair:** Therefore, you carry no responsibility as Chairman of the BBA for the actions of that company.

**Marcus Agius:** Nor did anybody else on the BBA board have any influence over its actions.

**Q737 Chair:** You have no responsibility or accountability for the actions of that limited company.

**Marcus Agius:** It has separate governance.

**Chair:** It is very helpful to have clarification on that point.

**Q738 Mark Garnier:** Thank you very much, Chairman. Just a quick question to satisfy my curiosity: you referred to the corporate broker a bit earlier. Who is your corporate broker?

**Marcus Agius:** It is Credit Suisse First Boston.

**Q739 Mark Garnier:** Thanks very much. Mr Agius, when did you last apprise yourself of the role profile for the Chairman from the *Corporate Governance in Barclays* document, which you wrote the foreword to, from the Barclays corporate secretariat in February 2012?

**Marcus Agius:** The technical answer to that question would be every time I give my approval to the report and accounts, because it is part of the report and accounts.

**Q740 Mark Garnier:** This is something you would look at once a year.

**Marcus Agius:** It is something I would look over once a year.

**Q741 Mark Garnier:** The reason I ask is that, on a number of occasions—in fact, in answer to Mr Fallon's question—when asked if LIBOR fixing was discussed at the board level, you said it was not. Would you like to respond to that?

**Marcus Agius:** The existence of the inquiry was made known to the board. Again, as I said, the process evolved as it went forward. There was a technical problem, which was that, early on, Bob Diamond had been identified as a potential witness, were there to be any subsequent action. Therefore, as time went by, the more detailed briefing was done in two different ways.

**Mark Garnier:** We are slightly straying from where I was going on this, and I do not mean to interrupt you.

**Marcus Agius:** I thought what I was saying might be helpful to the Committee.

**Q742 Mark Garnier:** It is helpful, but I am trying to get at two questions. First of all, is the Compliance Director a member of the main board of Barclays?

**Marcus Agius:** Compliance comes under Mark Harding, who is the Chief Legal Officer, and he sits in on all board meetings.

**Q743 Mark Garnier:** So he is the Legal Officer and he sits on the main board.

**Marcus Agius:** No, he does not sit on the main board. He attends all the—

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**Q744 Mark Garnier:** So you do not have a compliance representative on the main board of the bank.

**Marcus Agius:** We have Mark Harding, who attends all the board meetings.

**Q745 Mark Garnier:** Who is the director on the main board of Barclays bank with responsibility for the compliance function of the organisation?

**Marcus Agius:** That would also be the Finance Director, Chris Lucas.

**Q746 Mark Garnier:** The Finance Director doubles up as compliance officer. Gosh, that is quite a big job, isn't it?

**Marcus Agius:** That is why the separate function, under Mark Harding, is there.

**Q747 Mark Garnier:** The problem is that one of the roles, in this role profile for the Chairman, is "to facilitate and encourage active engagement and appropriate challenge by members of the board, particularly on matters of risk, strategy and other major proposals, by drawing on your direct skills, experience, knowledge and, where appropriate, independence". What troubles me about this is that there does not seem to be any really specific compliance function reporting to the board.

**Marcus Agius:** We have a separate risk committee, where all compliance matters are reported in to. David Booth, the Chairman of the Risk Committee, who is a non-executive director, chairs that committee. It meets several times each year, and all matters of compliance are pushed up into that committee.

**Q748 Mark Garnier:** Let us go to the other end of the problem. I would like to refer to, if I may, period 1, which is prior to the crisis. This is the swaps manipulation or the attempted manipulation of LIBOR rates by the swaps traders in New York. We have heard a great deal about them; they have been characterised as spivs and wide-boys, but let us say they are hot-blooded, enthusiastic swaps traders in New York trying to manipulate the LIBOR rates. Bob Diamond, in his evidence, said there were 177 occasions when emails had been sent by these swaps traders trying to manipulate the LIBOR rate. What I did not really get a satisfactory answer from Bob Diamond on is, it is one thing that you may have a compliance risk within the swaps trading department but, as the FSA said in their report, paragraph 147, "Barclays had no specific systems and controls in place." You can refer to my question, 212, of your copy of the transcript.

**Marcus Agius:** 212?

**Mark Garnier:** Yes, the second paragraph: "The FSA final notice, paragraph 147, says: 'Barclays had no specific systems and controls in place relating to ... LIBOR and EURIBOR.'" Then it goes on in paragraph 148—

**Marcus Agius:** Sorry, paragraph 148?

**Mark Garnier:** Sorry, yes. It is further on in that paragraph; I am just referring to something else. "Barclays did not believe the submission of LIBOR was an area of significant risk." What troubles me is

that you said a bit earlier that your compliance function is more intense on the areas where you have significant risk.

**Marcus Agius:** Greater perceived risk.

**Q749 Mark Garnier:** Would the swaps desk in New York be an area of specific or greater compliance risk?

**Marcus Agius:** More than the LIBOR submitters, yes.

**Q750 Mark Garnier:** There was an article written by a whistleblower in *The Independent* on Saturday. Did you have a look at that?

**Marcus Agius:** I have not seen that.

**Q751 Mark Garnier:** I will abridge for you some of the key phrases or the key lines. It talks about a "culture of fear" within Barclays and, in one statement, or at one point, the whistleblower says, "LIBOR fixing was escalated by several people up to their directors; they would then have escalated it up the line because, at Barclays, if you don't escalate ... you will be dismissed." There is a culture described of fear within the bank, and there is a requirement by individuals within the organisation to escalate any problems that they see to their line managers. Presumably line managers would push it further up the line. Presumably at some point it would hit the compliance department. What troubles me is that, on 177 occasions, the swaps traders in New York were emailing the rate setters, or the rate fixers in London, where there was estimated to be no compliance risk. Those rate fixers apparently did not get back to anybody. They neither passed it up the line that they were being asked to manipulate LIBOR, nor did they bounce it straight back to those swaps traders in New York to say, "You can't do this." What does that say about the organisation of the compliance function within your bank?

**Marcus Agius:** That says that, in that area, there was a failure. We acknowledge that and it should not have happened.

**Q752 Mark Garnier:** But how did it get to happen? I am afraid I am going to come back to this role profile, because, looking at this in particular, it specifically talks about your personal job, under governance, as being to "promote the highest standards of corporate governance, seeking compliance with the provisions of the UK Corporate Governance Code (the UK Code) wherever possible"—that is not necessarily the FSA but, nonetheless, it is all about compliance—and to "ensure that the board is able to discharge its duties and comply with the requirements of statutory/regulatory bodies that affect the functioning and responsibilities of the board." On top of that, "The Chairman will also demonstrate ethical leadership and uphold the highest standards of integrity and probity, setting clear expectations concerning the Group's culture, values and behaviour."

**Marcus Agius:** As I said, the activities behind what happened in phase 1 cannot be excused, full stop. That is an absolute statement. What I can also say, in mitigation, I guess, is that, as I said, we spent £100 million looking to see whatever we could find. No



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other examples were found of similar behaviour. This was an isolated area.

**Q753 Mark Garnier:** Does it not strike you as odd that senior managers, yourself included, are coming to us and saying that before 2009 they knew nothing about anything that was going on—or 2008, sorry?

**Marcus Agius:** It should have come up. It did not. That was wrong.

**Q754 Mark Garnier:** I appreciate the statement that you do not know what you do not know, or you cannot know what you do not know, whatever it is, but nonetheless the whole purpose of the compliance function—I really want to concentrate on this point—is to ensure that this type of thing does not happen.

**Marcus Agius:** It failed. It failed and that was wrong. It cannot be excused.

**Q755 Mark Garnier:** You also said a bit earlier that, in an unofficial aside, the FSA inspector, as you were walking him or her to the lift, said that yours was one of the best.

**Marcus Agius:** The best.

**Mark Garnier:** The best compliance function.

**Marcus Agius:** They said that our governance, of the banks that were supervised by her, was best in class.

**Q756 Mark Garnier:** How many did she supervise, do you know?

**Marcus Agius:** I imagine that she supervised the big banks.

**Q757 Mark Garnier:** Are we having a conversation here at the dawn of a huge revelation of a colossal banking scandal that has been going on, under our noses, for years?

**Marcus Agius:** I sincerely hope not. I sincerely hope that we are here, and not enjoying it for one minute, for the consequences of an isolated series of actions, in two different buckets, one of which was fundamental wrongdoing.

**Mark Garnier:** By your swaps traders and your LIBOR fixers.

**Marcus Agius:** In the clearest possible terms. The second one was some defensive action taken by some people in extraordinary circumstances, in the financial crisis. They are two different things. Neither of them is permissible and neither of them is condonable.

**Q758 Mark Garnier:** We do know, though, that the cancer has spread through the banking system in period 1, because of course some of your ex-employees of Barclays have taken the rot elsewhere.

**Marcus Agius:** Yes, but I do not know what happened or what will be discovered from inspecting other banks. I do not know, not surprisingly.

**Q759 Chair:** On that last point, Mr Agius, paragraph 82 of the FSA Final Notice—and I am sure you have read it very carefully, and I can read it out to you, but do take time to read it if you want; it is right at the top of the page—says “At least 12 of the ... LIBOR requests made to Barclays’ submitters were made on

behalf of external traders that had previously worked at Barclays and were now working at other banks.” Does that suggest to you that it was the culture of Barclays infecting other banks?

**Marcus Agius:** I cannot comment on that. I am not in a position to form a view on that.

**Q760 Chair:** Why not?

**Marcus Agius:** Because there may be other reasons, too.

**Q761 Chair:** Could you just suggest one or two?

**Marcus Agius:** You are saying that is an interpretation you could make. I can understand how you could make that interpretation. I cannot comment as to whether it is a fact.

**Q762 Andrea Leadsom:** Mr Agius, can you tell me how you would define “culture” as a word? In the context of Barclays, what is culture?

**Marcus Agius:** What is Barclays’ culture?

**Andrea Leadsom:** No, what is culture?

**Marcus Agius:** What is culture? Culture is the way in which you behave instinctively.

**Q763 Andrea Leadsom:** Throughout the bank or from the top?

**Marcus Agius:** Throughout the bank. I think it is a word that can be used for universal application.

**Q764 Andrea Leadsom:** So it should be something that is used throughout the bank. The reason I ask you that is because I believe there are 130,000 employees at Barclays worldwide.

**Marcus Agius:** A bit more.

**Q765 Andrea Leadsom:** How many of them are involved in investment banking activities versus retail banking activities?

**Marcus Agius:** A significant minority.

**Q766 Andrea Leadsom:** What, sort of 20% to 80%?

**Marcus Agius:** I would think there must be three-quarters of the bank that is not investment banking, perhaps even more.

**Q767 Andrea Leadsom:** In terms of the bank’s balance sheet, how much of the bank’s activity is in investment banking versus retail banking, in terms of capital employed?

**Marcus Agius:** About half.

**Andrea Leadsom:** About half and half?

**Marcus Agius:** Yes.

**Q768 Andrea Leadsom:** What impact do you think what we are seeing about Barclays’ culture has had on the, as you say, 75% of people who work in Barclays retail bank? Is there anything you want to say about that?

**Marcus Agius:** Yes, it must be absolutely appalling and I am extraordinarily uncomfortable, and I am sorry that that is the case. I have made that absolutely clear, unequivocally.

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**Q769 Andrea Leadsom:** I wanted to give you that opportunity, because certainly I, and I am sure colleagues, have had lots of letters from people who work an honest day's work in a branch, not earning a huge amount of money, or indeed in a call centre, for whom this is utterly appalling. I do think this is terribly important. When we are talking about the culture at Barclays, we are talking about from the top, and a very specific area of Barclays that excludes all of the over 100,000 people, as you have put it, in Barclays who are doing an honest day's job.

**Marcus Agius:** Absolutely, Ms Leadsom. I would be very keen to dissociate the activities of a tiny minority of people, whose behaviour was completely reprehensible, and say that that does not, of itself, represent the wider culture at Barclays. I do not believe that it does. I absolutely cannot believe that it does.

**Q770 Andrea Leadsom:** Okay, but going back to the issue of culture, because this is terribly important, isn't it, as long ago as 15 September 2010, when Hector Sants wrote to you in response to your request for Bob Diamond to be made Chief Executive, he says to you, "You have identified Bob Diamond's relative lack of direct retail banking experience, notwithstanding his role on both the Group Executive and Board ... We look to be satisfied that the required focus on the retail banking business and consumer outcomes is maintained by him." Do you think that he did that?

**Marcus Agius:** Yes, I do.

**Andrea Leadsom:** You think he kept the focus on the retail and consumer outcomes.

**Marcus Agius:** Yes.

**Q771 Andrea Leadsom:** Can you tell me: why did Martin Taylor resign as Chief Executive?

**Marcus Agius:** To be perfectly honest, I do not know the full circumstances. It was before my time.

**Q772 Andrea Leadsom:** Did you see his article in the *Financial Times* yesterday?

**Marcus Agius:** I did.

**Q773 Andrea Leadsom:** He says he resigned because Bob Diamond pressed for bank lines to Russia so that he could expand the BarCap exposure, the trading exposure, into Russian debt, and he, Martin Taylor, halved that exposure that was applied for at the Credit Committee, through the normal procedures; then when the Russian debt crisis happened, he was informed that, in fact, Barclays' exposure was far, far greater than the credit lines actually permitted, on the grounds that credit had been falsified as being European as opposed to Russian debt. How does that make you feel about the situation? Was Bob Diamond a suitable person to be in the post of Chief Executive creating this culture?

**Marcus Agius:** I do not think it would be fair for me to comment on that situation, since I do not know all the facts and I would not want to jump to conclusions. What I can do is answer the question you did ask, which is of the suitability of Bob Diamond as Chief Executive, which is something we have been through

before. As I said before, in my conversation with Hector Sants at the FSA, he was very clear: "If we had a problem with Bob Diamond being Chief Executive, we would not be happy with him being where he is at the moment, and we are." That is not to say that we rely on somebody else's say-so. We rely on what we see in front of us. What we have seen, and it is one of the reasons why we are keen to retain Bob in position, is his extraordinary achievement as a business partner.

**Q774 Andrea Leadsom:** Notwithstanding his excellence in business, is it appropriate that somebody should bend the credit approvals in the way that happened over the Russian debt? Assuming what Mr Taylor says is correct, is it appropriate? Is that in line with Barclays' procedures? Could somebody else get away with marking Russian debt as, in fact, Swiss or French or whatever it was marked as, with no consequences, and in fact end up being promoted to the role of Chief Executive?

**Marcus Agius:** As I say, I do not know the details of what happened. I cannot comment extensively, but if your question is "Should people maintain integrity at all times?" the answer is "of course".

**Q775 Andrea Leadsom:** You would accept then that, if it is the case, as Martin Taylor, the ex-Chief Executive, says it is, that further exposure was wrongly assessed as Western European debt that should have been marked down as Russian debt—

**Marcus Agius:** I do not know that that is the case. I think I would like to know the full facts. You have heard one side of the story; I do not know what the other side of the story is.

**Andrea Leadsom:** Okay, coming back then to Jerry del Missier—

**Q776 Chair:** Sorry, just before we go on to that, if you do not mind, Andrea, before you appointed Bob Diamond Chief Executive, didn't you think that it would be appropriate to examine very carefully what had happened on that deal, bearing in mind how much had been lost?

**Marcus Agius:** I was not aware of that deal at the time.

**Q777 Chair:** You were not aware at all. You were not aware that the bank had lost a lot of money as a consequence of a controversy that arose as a result of debt instruments taken on to Barclays' balance sheet that, prior to the collapse of Russia—the Russian debt crisis—people thought was West European debt.

**Marcus Agius:** Mr Chairman, I do not know the full circumstances that have been described. We have heard one side of the situation in an article in the newspaper. I would have relied on the fact that, if there had been anything that was untoward or something that should be brought to my attention, it would have been brought to my attention.

**Q778 Chair:** Whose responsibility was it, within Barclays, to have brought that to your attention?

**Marcus Agius:** That would have been—I do not want to trivialise it—the system, either the legal system, the

HR system or the compliance system. It should have been brought to the board.

**Q779 Chair:** Try to pin that down a little, because you have just described all the safeguard mechanisms in a bank.

**Marcus Agius:** I understand that, but if there was some lingering reputational concern, deep in the history of the bank, that was of sufficient language as implied, then that would have been brought to my attention.

**Q780 Chair:** What kind of due diligence did you do before making this appointment internally?

**Marcus Agius:** The due diligence of Bob Diamond having worked in the bank for 16 years.

**Q781 Chair:** It does not seem to have been thorough enough even to alert you to the existence of this controversy.

**Marcus Agius:** As I say, I do not know how serious or otherwise that matter was.

**Q782 Andrea Leadsom:** I would just like to reiterate that you yourself raised Bob Diamond's relative lack of retail experience.

**Marcus Agius:** It was raised by Hector Sants and, indeed, it was a fact.

**Andrea Leadsom:** Hector Sants signs the letter and says, "You have identified"—this letter is to you—"Bob Diamond's lack of direct retail banking experience." My concern there is that here you have somebody who, effectively, was the reason why Martin Taylor left the bank, if Martin Taylor's report in the *FT* yesterday is accurate. He felt that somebody had been allowed to get away with, effectively—I do not want to put words in his mouth—changing the system: not using the appropriate system for reporting credit outstanding. Not only that but, in the end, when the market came good and was to the benefit of the Group, Mr Diamond got paid a bonus as a result of the debt being marked back as now being good. I just leave the thought with you that, if you were unaware of that issue and if that did not come up at the point when you were looking to recruit him, particularly bearing in mind you yourself raised the fact that there was a concern over his retail experience, I would have thought there was also a concern over his integrity on that issue.

**Q783 Chair:** Isn't this another example of Barclays' culture being amiss or there being something amiss with it—that this did not come up, as you put it, through the system?

**Marcus Agius:** As I say, I need more sight of how serious that actually was, whether it is as described or not. I am sorry; you also raised the question of retail experience. The reason for raising that is self-evident. The job for which he was being appointed was Chief Executive, i.e. executive in charge of all the affairs of the bank. The extent to which he did not have hands-on experience in the retail bank was something that would need to be monitored, and we needed to form comfort that the bank would not in any way suffer from that relative lack of experience. As it

happens, in managerial terms, and I hope the people on that side of the bank do not feel unhappy from my saying it, it is a relatively simpler matter to manage a retail bank than it is to manage an investment bank. The concern was not an extreme concern, but it was a concern nonetheless.

**Q784 Andrea Leadsom:** I think that is an interesting point, because this Committee has, many times over the last two years, certainly since I have been on it, raised the issue of the importance of retail banking to the real economy in the UK. Effectively, here is Barclays taking on somebody when the board itself, the Chairman himself, has concerns about their lack of direct retail experience. Here you are putting one of Britain's great institutions into the hands of somebody, when you yourself have concerns about his retail experience.

Anyway, I would like to go on, Mr Agius, because I would like to ask you about Jerry del Missier's appointment. I think you said earlier that the audit committee first raised the issue of LIBOR manipulation in the inquiry in April 2010. Is that right?

**Marcus Agius:** The fact that there was an inquiry into affairs at LIBOR was raised in fairly general terms in April 2010, and the degree of detail became evident as time went by.

**Q785 Andrea Leadsom:** Did that highlight both the criminal LIBOR fixing as well as the market-related fixing in trying to avoid getting into trouble with the Government?

**Marcus Agius:** You will forgive me if I struggle a bit here as to whether the first indications were the second or the third. I think it was the second and third, and the first then came out subsequently.

**Q786 Andrea Leadsom:** You do not think that the criminality aspect of it was made—?

**Marcus Agius:** That was the whole point. The LIBOR inquiry was into the low-balling, to use the expression that seems to be current in this Committee. The CFTC started that inquiry into low-balling. We co-operated with that. As we searched through our records, as we searched through our emails and searched through our voice recordings, we discovered the criminality, to use your expression. Instead of sitting on that, we naturally disclosed that, and we in fact then turned up the volume, or whatever the expression is, on the low-ball activity we did to see just how much we could uncover, and we left no stone unturned.

**Q787 Andrea Leadsom:** When would that have been? When would it have been that you were first aware of the potential criminality?

**Marcus Agius:** My recollection was that that was in the early months of 2011.

**Q788 Andrea Leadsom:** Okay, so long before the report came out from the FSA, where Mr Diamond says he only knew about it a month ago. You knew about it in 2011.

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**Marcus Agius:** Mr Diamond was off-side, as I have made clear. Because he was a potential witness, he was excluded from all considerations of these matters.

**Q789 Andrea Leadsom:** He was not aware that there was concern within the bank that there may have been criminality. He was completely excluded from any knowledge that that might be the case.

**Marcus Agius:** He was simply aware that there was an inquiry into LIBOR.

**Q790 Andrea Leadsom:** He had no idea that there might be criminality involved.

**Marcus Agius:** I believe that is the case.

**Q791 Andrea Leadsom:** You believe that is the case, okay. The audit committee told you, in April 2010, that there was an inquiry going ahead.

**Marcus Agius:** It was not the audit committee who told me. It was our Chief Legal Officer who told us that. Our Chief Legal Officer, Mr Harding, told me that. He reported it because he was the person who was liaising with the process. He told me and he told Mike Rake. It was then raised as a standard matter at the next audit committee and at the next board.

**Q792 Andrea Leadsom:** Just a week before the publication of the FSA, CFTC and Department of Justice reports on Barclays and LIBOR manipulation, Jerry del Missier was promoted to Chief Operating Officer—just a week before. By that time, you would have known that he was the person being cited as having erroneously misunderstood, misinterpreted, the phone call between Bob Diamond and Paul Tucker.

**Marcus Agius:** Yes.

**Q793 Andrea Leadsom:** Why would you have promoted him just a week before that report came out? Did that seem like a sensible thing to do?

**Marcus Agius:** We debated that very carefully, as you would imagine. The factors that were in our mind were, first of all, whether it was a genuine misunderstanding or not, and secondly, because it was even better for them to ask whether the FSA concluded the same thing. The FSA specifically said there was no issue to raise in respect of Jerry del Missier's behaviour.

**Q794 Andrea Leadsom:** You did not consider how it might be viewed by the public.

**Marcus Agius:** Yes, we did.

**Q795 Andrea Leadsom:** When Mr del Missier says, "We intend to make Barclays the industry benchmark for operational excellence and control in the new economic and regulatory environment," was that a joke?

**Marcus Agius:** I do not think that was a joke.

**Q796 Andrea Leadsom:** Going back to the issue of compliance, we did not get very far with Mr Diamond in terms of how the compliance office should have been raising this issue of LIBOR manipulation. Here I am referring again to the criminality. Mr Diamond suggested that a compliance officer might sit in the

dealing room from time to time. Can you shed any further light on that? Was there a compliance officer in the room? Where does Mark Harding sit, for example?

**Marcus Agius:** Mark Harding sits in head office.

**Q797 Andrea Leadsom:** That is not where the dealing room is now.

**Marcus Agius:** That is not where the dealing room is.

**Q798 Andrea Leadsom:** Is there a compliance officer at all times in the dealing room?

**Marcus Agius:** In the early stages, I imagine there was not.

**Q799 Andrea Leadsom:** "In the early stages" being when?

**Marcus Agius:** I would need notice of the precise compliance procedures in the dealing room at that period. What I said earlier was that the control of the LIBOR submissions and the LIBOR process was slight, because it was perceived, in the early days, that the risk to the bank, the risk area, was slight.

**Q800 Andrea Leadsom:** At what point would that have been tightened up then? What date would the compliance procedures have been tightened up?

**Marcus Agius:** As the inquiry went on.

**Q801 Andrea Leadsom:** What date would a compliance officer have been posted in the dealing room to make sure that there was no other fraudulent activity?

**Marcus Agius:** I would need notice for that question. I can come back to you and provide the answer, if you like.

**Q802 Andrea Leadsom:** Would that be minuted somewhere in board minutes—"As of now, we feel the need to post somebody in the dealing room"?

**Marcus Agius:** It would be recorded. I would need notice of that.

**Q803 Andrea Leadsom:** It would be very helpful to know exactly when that happened. In spite of the fact that a compliance officer would have been present in the dealing room from time to time, and that desk supervisors, clearly from the reports from the FSA and CFTC, were aware of the criminal manipulation of LIBOR, do you agree with Mr Diamond that obviously they just never, in spite of the fact that they knew they were supposed to, escalated it beyond their level? Do you agree that that is the case?

**Marcus Agius:** That was the failing.

**Q804 Andrea Leadsom:** You agree that, in spite of the fact that desk supervisors and compliance officers would absolutely know that, according to Barclays' compliance procedures, they must escalate any knowledge that they have of wrongdoing, they failed to do so.

**Marcus Agius:** That was a failure.

**Q805 Andrea Leadsom:** Going back to this whistleblower, he or she says very specifically, as was

referred to by Mr Garnier, “LIBOR fixing was escalated by several people up to their directors; they would then have escalated it up the line because, at Barclays, if you don’t escalate ... you will be dismissed.” Why do you suppose they did not escalate it?

**Marcus Agius:** I cannot comment on that.

**Q806 Andrea Leadsom:** But that is the failure.

**Marcus Agius:** That was the failure, yes.

**Q807 Andrea Leadsom:** Who is responsible for that failure?

**Marcus Agius:** It is because of that failure that we are sitting here.

**Q808 Andrea Leadsom:** One final question: you say that you do not know what date the board finally recognised there was a failure that needed to be put right. Since that date, to be advised to the Committee, what steps have you taken to look at other areas of self-certification of fixings, for example the ISDA daily fixing, which is another self-certification, or for example the gilt-edged auctions? Have you looked at other parts of markets that may be open to distortion as well?

**Marcus Agius:** One of the things that we put in our announcement last week was that we are now going to engage in a root-and-branch examination of all of our practices to make sure that there is nothing anywhere that we would, in any sense, be unhappy about.

**Q809 Andrea Leadsom:** That is as a result of the Treasury Select Committee inquiry, not as a result of your own internal procedures.

**Marcus Agius:** That is in order to try to restore confidence that the systems we have are as they should be, internally and externally.

**Q810 Andrea Leadsom:** I just want to clarify: did you not think it might be important to carry out that audit following the realisation of wrongdoing within the bank? You only just announced that last week.

**Marcus Agius:** The existence of the criminality, as I said, was revealed to us relatively late in the day.

**Chair:** It seems we are finding out a great deal from these exchanges this morning that we should have found out a week ago from Mr Bob Diamond. We are grateful for that.

**Q811 John Thurso:** We have met socially and I believe you to be a man of personal honour, so I am sure you are finding this a very difficult time. What, with the benefit of hindsight, would you have done differently?

**Marcus Agius:** It is a question I have asked myself. I am not happy to be where I am, as you can imagine. I have gone back and thought about each of the different inflection points—each of the different forks in the road that I have come to. I have tried to see how I and others have acted at each different point. It is very difficult, as you go back, to say what you would have done differently. It is a concatenation of events that has led us to where we are.

Lord Thurso, if I may, one of the things that distresses me most about these exchanges and this week is that of course this activity should not have happened. Of course it should not have happened. No one is saying it should; everyone was absolutely appalled by it. What do you do when you hear about it? What you do when you hear about it is you take action. We could not have responded more fulsomely. You used the expression yourself, Mr Chairman: we are suffering from first-mover disadvantage. We are moving heaven and earth to put everything right. What I am finding most trying is the thought that the actions of this relatively small number of people, who were the only people we identified despite spending £100 million investigating it, should be taken to be indicative of the culture of the entire organisation. That is why Ms Leadsom says that she gets letters from constituents who work in the retail bank expressing their dissatisfaction; of course they do, because we are all in exactly the same place. 99.9% of the people in the bank are appalled by what has happened. I cannot say it more strongly than that.

**Q812 John Thurso:** Do you believe that Barclays has been misunderstood?

**Marcus Agius:** Barclays has been around for 300 years. I would like to think it would be around for another 300 years. It has a history, a proud history, of people who have done well for society and for their customers, and we are very much a customer-centric organisation. I imagined someone was going to ask me at some point to describe the culture at Barclays. The answer I would have given would be that the culture is honest, it is customer-centric and it is competitive. Those three things: honest, customer-centric and competitive. Honest, because that has to cover everything we do in our dealings. Customer-centric, because we operate in a very competitive world. We perform a service. People have choice. They do not have to come to us; they can go elsewhere. They will only come to us if we deliver what they want, and that is why we have a competitive spirit, which is good. Roger Federer has a competitive spirit; it is applauded. We want to do the best by our customers and do the best by our shareholders in consequence, and we do. The third thing, as I say, is we are competitive, so honest, customer-centric and competitive.

**Q813 John Thurso:** Can I just test that a little bit? You said in an earlier answer, when asked about culture, that it is what people do when they behave instinctively. I think you are absolutely right. How does an investment banker behave instinctively?

**Marcus Agius:** A good investment banker is, at all times, trying to think how well and, it goes without saying, honestly to serve his client.

**Q814 John Thurso:** Is not the instinctive behaviour of merchant and investment bankers one of seeking to create profit through trading and dealing?

**Marcus Agius:** Part of that is, yes.

**Q815 John Thurso:** By contrast, is not the instinctive behaviour of the traditional high street

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banker one of seeking profit through giving advice and service to customers in the branch?

**Marcus Agius:** Yes, and I think the same applies in the investment bank, too.

**Q816 John Thurso:** Do you not see that it is possible to say that there is a quite separate, for good reasons on both sides, set of cultures between those two types of banking operation?

**Marcus Agius:** If you are trying to suggest that investment bankers are not customer-centric, I do not accept that.

**Q817 John Thurso:** I look at the current board of Barclays and I notice, with I think possibly one exception, everybody from a banking background is basically from an investment banking background. You have said twice that there was far greater reputational damage than expected, and somewhere else that the public outcry was greater than expected. You were clearly taken by surprise, I would suggest. At another point, you said that the regulators clearly changed their attitude between the Wednesday and the Monday. What I am driving at—which I think is going to be at the heart of a lot of questions going forward—is that actually there is quite a big culture that goes beyond Barclays into modern banking, which is around large amounts of capital being dealt in many ways. Actually, the customer in the high street, the SME or individual borrower, is at the bottom of the chain rather than the top of the chain.

**Marcus Agius:** I do not accept that, Lord Thurso. If you look at our customer satisfaction ratings at the moment in our retail bank, they are as high as they have ever been. They are top of class.

**Q818 John Thurso:** How do you then explain the disconnect between all of the people who come to see us with the problems they have, and this is very

widespread—you are welcome to look at all the emails I get—and that statement? What has gone wrong that we have an industry that believes it is doing the right thing and we have a public that tells us, their representatives, that it is not?

**Marcus Agius:** I would not wish to over-generalise at all or anything, but the whole nation, the whole of the Western economy, is still suffering from the aftermath of the financial collapse. It affects many people in many different ways. Many of our customers are suffering because of the financial situation and they, very often, are unhappy with their relationship with their bank in consequence.

**Q819 John Thurso:** You are, I think, at the moment de facto CEO of the bank.

**Marcus Agius:** On an interim basis, de facto.

**Q820 John Thurso:** What is top of your priority list?

**Marcus Agius:** Top of my priority list is to make sure that the bank operates effectively during this interim period.

**Q821 Chair:** You have been fined £290 million and you have taken personal responsibility. We all recognise just how difficult it has been for you, particularly to give evidence today. You have put in place a root-and-branch review of Barclays' culture in these very difficult times. It is in all our interests that that goes well and it is done thoroughly and quickly, so that the overwhelming majority of people in Barclays, who are doing an honest day's work, do not end up impugned by this scandal.

**Marcus Agius:** Correct.

**Chair:** If I may form a judgment, you have made a start today in that process, with a good deal of candour and directness in your exchanges with this Committee. We very much appreciate it. Thank you very much for coming in.

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**Monday 16 July 2012**

Members present:

Mr Andrew Tyrie (Chair)

Michael Fallon  
Mark Garnier  
Stewart Hosie  
Andrea Leadsom  
Mr Andrew Love  
John Mann

Mr Pat McFadden  
Mr George Mudie  
Jesse Norman  
Teresa Pearce  
Mr David Ruffley  
John Thurso

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**Examination of Witness**

*Witness:* **Jerry del Missier**, former Chief Operating Officer, Barclays plc, gave evidence.

**Q822 Chair:** Thank you very much for coming in, Mr del Missier. You have resigned; is there anything that you want to say particularly in respect of that before we get into the evidence?

**Jerry del Missier:** No, thank you, Chairman.

**Q823 Chair:** I would like to take you to the file note you received on 30 October 2008. Why were you copied in on that file note?

**Jerry del Missier:** I am assuming that this is the file note that relates to the conversation Mr Diamond had with Mr Tucker. Mr Diamond and I had a conversation the day before about the phone call. I do not know why he copied me in, other than to say that he was copying me in as a follow-up to our conversation.

**Q824 Chair:** What did you do with it? Did you act on it? What action did you take in respect of it?

**Jerry del Missier:** I took the action on the basis of the phone call that I had with Mr Diamond the day before.

**Q825 Chair:** What did he say then?

**Jerry del Missier:** He said that he had a conversation with Mr Tucker of the Bank of England, that the Bank of England was getting pressure from Whitehall around Barclays—the health of Barclays—as a result of LIBOR rates, that we should get our LIBOR rates down, and that we should not be outliers.

**Q826 Chair:** In the phrase, “get our LIBOR rates down”, were you referring to rates or submissions?

**Jerry del Missier:** At this stage, it is difficult to distinguish the two—

**Q827 Chair:** Because LIBOR is dysfunctional?

**Jerry del Missier:** Exactly.

**Q828 Chair:** So you were, in practice, referring to submissions?

**Jerry del Missier:** Yes.

**Q829 Chair:** You had a call from Mr Diamond, who told you effectively to invent a submission?

**Jerry del Missier:** No, Sir; that is not what Mr Diamond said.

**Q830 Chair:** Well, what did he say?

**Jerry del Missier:** A little bit of context here is very important. The crisis that had been really going on for just over a year had entered a period of severe escalation following the collapse of Lehman Brothers, and that really led to an unprecedented degree of Government intervention in the financial system. In the US, AIG was bailed out and the Government was in the process of injecting capital into all the large banks, whether they needed it or not. In the first week of October, HBOS and RBS were unable to fund themselves, and the Government launched the credit guarantee scheme. They subsequently followed that up with a massive capital injection into Lloyds-HBOS—in fact, they arranged the merger of the two—and into RBS. By the time we got to late October, there was a real tangible sense of Governments calling the shots.

**Q831 Chair:** We do know all that, though. What I am trying to get at is whether you submitted, knowingly, fabricated returns on LIBOR.

**Jerry del Missier:** I passed the instruction, as I had received it, on to the head of the money markets desk.

**Q832 Chair:** And what did you say to him when you passed that instruction?

**Jerry del Missier:** I relayed the contents of the conversation that I had with Mr Diamond, and fully expected that the Bank of England’s views would be incorporated in the LIBOR submissions.

**Q833 Chair:** What did you expect him to do to the submissions in response to that—put them up, leave them where they were, or reduce them?

**Jerry del Missier:** I expected that they would take those views into account, given that, at that stage, Barclays—

**Q834 Chair:** I am asking what “taking into account” means. Does it mean putting them up, leaving them where they are, or reducing them?

**Jerry del Missier:** Given that Barclays was high rates, I would have expected that taking that into account would have resulted in lower submissions.

**Q835 Chair:** And that would have been a fabricated return, would it not?

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**Jerry del Missier:** Well, Mr Chairman, at the time, the rate was hugely, hugely subjective, and the Bank of England—

**Q836 Chair:** But this is subjective in one direction, isn't it? South.

**Jerry del Missier:** Well, subjective in the sense that there is very little activity going on. As the Bank of England is the institution that is responsible for the stability of the system and has the expertise and visibility across the entire market, its views are extremely relevant here.

**Q837 Chair:** Did it cross your mind that this was something that might subsequently excite the attentions of the regulator?

**Jerry del Missier:** At the time, Sir, it seemed appropriate, given everything that was going on. Again, the Bank of England, in its role as responsible for the stability of the system, and with oversight and expertise across the whole of what was going on in the markets—

**Q838 Chair:** Did you discuss the instruction with Mr Diamond ever again?

**Jerry del Missier:** No, sir.

**Q839 Chair:** This must have been a big event, though, for you to suddenly go to the LIBOR desk and say, "I want you to lower your submissions." Was it a big event or a small event in your life? Was this something that you did over a cup of coffee and then forgot about by teatime, or was this quite a big event?

**Jerry del Missier:** There were many, many big events going on in this period, Mr Chairman. The entire financial system was hanging in the balance, and in the grand scheme of everything that was going on, it didn't seem a significant event, given the number of significant events that were transpiring at that time.

**Q840 Chair:** Not significant enough for you to want to speak to Mr Diamond again about it?

**Jerry del Missier:** No.

**Q841 Chair:** So it was just left, and this instruction stayed in place for how long?

**Jerry del Missier:** Within a week, there was a co-ordinated massive reduction of interest rates, which, frankly, rendered the whole issue obsolete.

**Q842 Chair:** Would you agree that to a Committee like ours, given that this clearly was an important issue—even though you are describing it as relatively insignificant—not speaking to Mr Diamond again about it does strike us as somewhat implausible?

**Jerry del Missier:** Over the previous year, the whole issue of LIBOR had come up many, many times, and there was much commentary and discussion with regulators, so this was not the first time that the subject of LIBOR had come up as an issue.

**Q843 Chair:** Meaning that the possibility that you might want to fiddle the LIBOR rate had already been discussed?

**Jerry del Missier:** No.

**Q844 Chair:** Meaning what, then?

**Jerry del Missier:** Meaning that the question over where banks were submitting their LIBOR rates, what the market was trying to infer from where banks were submitting their LIBOR rates, and the fact that the LIBOR market, the inter-bank funding market, was dysfunctional was something that had been a topic at various times over the previous year.

**Q845 Mr Ruffley:** Did you know that this low-balling of submissions was illegal?

**Jerry del Missier:** Well—

**Mr Ruffley:** At the time.

**Jerry del Missier:** No, it did not seem an inappropriate action, given that this was coming from the Bank of England.

**Q846 Mr Ruffley:** "Did not seem an inappropriate action", but the US Department of Justice has said it is illegal in its findings. That is why Barclays has been fined—it was illegal. Why are you telling us, in slightly different terms, that it did not seem inappropriate? It does not sound as if you know your job.

**Jerry del Missier:** Mr Ruffley, the findings of the Department of Justice cover a number of different activities, and I think what you are referring to—

**Q847 Mr Ruffley:** No, with the greatest of respect, they cover the low-balling, which was occurring—everyone accepts this—to protect the reputation of Barclays, because it was an outlier on its LIBOR submissions. You know that as well as I do. You have read the US Department of Justice judgment. Isn't that true?

**Jerry del Missier:** Yes, I have.

**Q848 Mr Ruffley:** Yes, it is true, isn't it?

**Jerry del Missier:** No, Sir.

**Q849 Mr Ruffley:** Oh, you don't think it is. It is an illegal activity—yes or no?

**Jerry del Missier:** The events that happened in—

**Q850 Mr Ruffley:** Is low-balling of LIBOR submissions an illegal activity, Mr del Missier?

**Jerry del Missier:** The events—

**Q851 Mr Ruffley:** Is it an illegal activity? Come on, answer it. And the answer is—

**Jerry del Missier:** Within the context—

**Q852 Mr Ruffley:** No, forget context. Is it an illegal activity?

**Jerry del Missier:** The manipulation of—

**Q853 Mr Ruffley:** Is it an illegal activity?

**Chair:** Let the witness—

**Mr Ruffley:** Well, he's not answering. He isn't doing very well. Come on, is it yes or no?

**Jerry del Missier:** Well, it is not a yes or no answer, Mr Ruffley.

**Mr Ruffley:** Really.

**Jerry del Missier:** If you will allow me the opportunity to explain, the Department of Justice



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report covers a number of different events and makes specific reference to the situation that was taking place between groups of traders as part of the LIBOR submission process.

**Q854 Mr Ruffley:** So it is not illegal?

**Jerry del Missier:** I have not said that. I am just saying that you are trying to make a generalisation across several different events .

**Q855 Mr Ruffley:** I am going to quote what the US Department of Justice says: “Barclays’...illegal activity involved manipulating its submissions for benchmark interest rates in order to benefit its trading positions and the media’s perception of the bank’s financial health”—so we are talking about that; the perception of the bank’s financial health—“Today’s announcement is the result of the hard work of the FBI Special Agents, financial analysts and forensic accountants as well as the prosecutors who dedicated significant time and resources to investigating this case.” It is illegal, isn’t it?

**Jerry del Missier:** The manipulation of LIBOR is illegal according to what you have just read.

**Q856 Mr Ruffley:** According to the US Department of Justice. What we are trying to get at here, Mr del Missier, is that you were unaware that the instruction—would you call it an instruction that Mr Diamond gave you?—to get the light to procure low-balling of LIBOR’s submissions at Barclays—it was an instruction, wasn’t it?

**Jerry del Missier:** Yes, it was.

**Q857 Mr Ruffley:** It was an instruction from Mr Diamond to you. Now, you weren’t aware that that was an illegal activity that he was asking you to bring about.

**Jerry del Missier:** I disagree that it was an illegal activity.

**Q858 Mr Ruffley:** So you are disagreeing with the Department of Justice. We will move on. Did you discuss with Mr Varley or Mr Agius this instruction from Mr Diamond?

**Jerry del Missier:** No, I did not.

**Q859 Mr Ruffley:** Did you discuss it with any member of the Financial Services Authority?

**Jerry del Missier:** No, I did not.

**Q860 Mr Ruffley:** Or any Whitehall civil servant?

**Jerry del Missier:** No, I did not.

**Q861 Mr Ruffley:** To whom did you give the instructions?

**Jerry del Missier:** To the head of the money market desk.

**Q862 Mr Ruffley:** To one person.

**Jerry del Missier:** Yes.

**Q863 Mr Ruffley:** And you did not check up or speak to that individual subsequently to find out

whether or not he had carried out your instructions adequately?

**Jerry del Missier:** I had a follow-up conversation with the head of the desk, and several of the desk members, and gave them the context of the conversation that I had had with Mr Diamond about the conversation that he had had with Mr Tucker.

**Q864 Mr Ruffley:** That’s a very convoluted answer. Simple question: did you check to see what effect your instructions to this gentleman had had on LIBOR’s submissions?

**Jerry del Missier:** No.

**Q865 Mr Ruffley:** Why did you not do that?

**Jerry del Missier:** As I said earlier, there were many, many things going on in the markets at the time. It was a period—

**Q866 Mr Ruffley:** So you gave an instruction, which turns out to be an illegal one according to the US Department of Justice. That is something you are not willing to accept, but I think people can make up their own minds about why you are in denial about this, Mr del Missier. People will also find it equally implausible that you did not check up as to whether or not these instructions that your boss, Mr Diamond, had asked you to carry out had been carried out. You did not look at the LIBOR submissions at all, no?

**Jerry del Missier:** I did not follow up to see whether they had been—

**Q867 Mr Ruffley:** You did not follow up—right. Did you give any instruction to any Barclays employee subsequently to desist from this illegal activity?

**Jerry del Missier:** No, there was no follow-up like that.

**Q868 Mr Ruffley:** So it was floating in the ether. You give the instruction; you don’t check that it has been followed; and, secondly, you don’t check to see whether or not they’re still doing it.

**Jerry del Missier:** Well, as I said—

**Mr Ruffley:** You did not check to see if people were still doing it or not in subsequent weeks.

**Jerry del Missier:** No.

**Q869 Mr Ruffley:** So you did not check that either. My final question is: when did you first realise—I am looking for a date here—that you had authorised, knowingly or unknowingly, illegal activity, found to be illegal by the US Department of Justice? When did you find out that you had a problem on your hands?

**Jerry del Missier:** The investigation was—

**Mr Ruffley:** No, on what date did you discover that?

**Jerry del Missier:** In the early months of 2010. I can give a timeline around the investigation, which commenced in December 2008—the CFTC through the FSA.

**Q870 Mr Ruffley:** And you knew it was illegal at that point, did you?

**Jerry del Missier:** Then, as we went through the—

**Mr Ruffley:** You were notified that it was a potentially illegal activity.

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**Jerry del Missier:** No.

**Q871 Chair:** Just to be clear, in response to questions there you said, or at least you tried to avoid saying, that it was illegal. Do you consider it to have been improper?

**Jerry del Missier:** No, I don't.

**Q872 Chair:** So you are taking issue with the Department of Justice's conclusions, when in paragraph 48 it describes this as "the period of improperly lower LIBOR submissions".

**Jerry del Missier:** I base my judgment, Mr Chairman, on the role that the Bank of England plays in the context that the world was in. It did not strike me as improper in late October 2008.

**Chair:** Okay, but you are taking issue with the Department of Justice on that point, aren't you? It is saying that it was improper and you are saying that it is not.

**Jerry del Missier:** No, Sir. I am merely telling you how I looked at it in October 2008.

**Q873 Chair:** Then you did not consider it improper. Retrospectively, now—looking back—do you realise that it was indeed improper? Do you now agree with the Department of Justice, or disagree with it?

**Jerry del Missier:** I am certainly not going to disagree with the Justice Department.

**Q874 Chair:** Does that mean that you agree with it?

**Jerry del Missier:** I agree with it.

**Q875 Chair:** Okay. So you are agreeing that in retrospect it was improper. Was it wrongful?

**Jerry del Missier:** I am sorry, I am not grasping the difference between wrongful and—

**Chair:** It says here, "Barclays acknowledges"—I do not think that you have so far acknowledged—"that the wrongful acts taken by participating employees in furtherance of this misconduct". That is a reference to you, isn't it, Mr del Missier?

**Jerry del Missier:** Mr Chairman, again, this report covers a number of different actions, and clearly—

**Q876 Chair:** This is a reference to the so-called low-balling. Do you have this document in front of you?

**Jerry del Missier:** I don't, Sir.

**Chair:** Okay, but you have read it, I'm sure, very carefully. This is page 22 of appendix A of the statement of facts.

**Jerry del Missier:** I would be very happy to read it. I don't have that degree of familiarity with the document.

**Q877 Chair:** "Barclays acknowledges that the wrongful acts taken by the participating employees in furtherance of this misconduct set forth above were within the scope of their employment at Barclays." It doesn't sound good at all, does it?

**Jerry del Missier:** No, Mr Chairman, and I regret the fact that Barclays's reputation has been sullied by the collective actions that are outlined in the document.

**Q878 Stewart Hosie:** Mr del Missier, can I just summarise? You acted not on the basis of the file note but, as you said, on the basis of the phone call with Mr Diamond. You said that there was pressure from Whitehall to get our LIBOR rates down. You then passed on the instruction, and you said you believed the Bank of England's views would be incorporated. So you clearly believe that you were acting on an instruction from the Bank of England or from other Whitehall sources. Is that correct?

**Jerry del Missier:** Yes.

**Q879 Stewart Hosie:** You said in answer to David Ruffley that you hadn't discussed this with any of the sources. Do you know who in particular, in the Bank, the FSA or Whitehall, might have given such an instruction?

**Jerry del Missier:** I don't know. I wasn't on the call with Mr Tucker and Mr Diamond. I do know that at that time, which really was the height of the crisis, all the tripartite authorities were working very closely together.

**Q880 Stewart Hosie:** Would you have taken the step of giving the instruction if you had felt that you didn't have cover from the tripartite? If it had been only an internal bank instruction, would you have followed it?

**Jerry del Missier:** Internal bank, as in Barclays?

**Stewart Hosie:** Yes.

**Jerry del Missier:** No.

**Q881 Stewart Hosie:** So you took the instruction because you believed it was coming from the outside—it was external and part of dealing with the systemic problem?

**Jerry del Missier:** Yes.

**Q882 Stewart Hosie:** But you didn't think to check who precisely may have given that instruction to Mr Diamond?

**Jerry del Missier:** Mr Diamond told me that Mr Tucker had given it.

**Q883 Stewart Hosie:** May I take you back a little, please? You became head of derivatives in 1997, and Co-President of BarCap in September 2005. Did you ever consider the manipulation of LIBOR rates to be even a theoretical possibility?

**Jerry del Missier:** Very complex. I had not thought of it before because of knowledge of the process in which of the 16 banks, the four highest and the four lowest are excluded, and you are left with eight which are then averaged. The notion of manipulation is something that is very difficult to contemplate.

**Q884 Stewart Hosie:** That's the overall rate, but clearly manipulation of an individual bank's submission is very straightforward. Did you as head of derivatives ever have to discipline a trader for asking for a LIBOR submission to be at a certain level?

**Jerry del Missier:** No.

**Q885 Stewart Hosie:** Were you aware of disciplinary action ever being carried out? Had people in

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compliance discussed this with you in the period from 1997 to 2005?

**Jerry del Missier:** No.

**Q886 Stewart Hosie:** You said you became aware of this in 2010, but that follows Bloomberg in 2007, the *FT* in 2007, and many other articles in the press. Did you check whether any of this was going on inside Barclays when external reports of other banks were being produced?

**Jerry del Missier:** Well, the articles in 2007 were not referring to the kinds of activity between the swap traders and the money market desk. The focus of attention was around where banks' money market desks were submitting rates. The investigation that was kicked off in late 2008 uncovered the actions that were taking place between the swap traders and the money market desk.

**Q887 Stewart Hosie:** May I read the FSA final notice? "Barclays acted inappropriately and breached Principle 5 on numerous occasions between January 2005 and July 2008 by making...LIBOR... submissions which took into account requests made by its interest rate derivatives traders." We know from evidence there were people screaming across dealing floors. They wanted specific LIBOR arrangements set. Why did nobody tell you about this?

**Jerry del Missier:** There was clearly a breach of fundamental control, and that is exactly why we in Barclays found ourselves in this position, why we have paid a large fine, and why we have instituted significant controls and enhancements as a result of that.

**Q888 Michael Fallon:** May I remind the Committee of my registered interest as a non-executive director of Tullett Prebon? Let us come back to the Tucker phone call. I know there was a misunderstanding, but did you regard it as an instruction from the Bank of England or from the public authorities generally in England?

**Jerry del Missier:** From the Bank of England.

**Q889 Michael Fallon:** Right. And when you relayed this as an instruction to the head of money markets, as I think you said, did you tell him it was an instruction from Mr Diamond or an instruction from the Bank of England?

**Jerry del Missier:** From the Bank of England.

**Q890 Michael Fallon:** Mr Diamond says that you clearly misunderstood this. How could you have misunderstood it?

**Jerry del Missier:** Well, Mr Fallon, I know only what I clearly recall from my conversation with Mr Diamond. The investigators that have looked at this thoroughly have concluded that there was a miscommunication and misunderstanding, but I can only recall my recollection—I can only state what my recollection of the conversation is.

**Q891 Michael Fallon:** But the file note was made the day afterwards, was it not? It is pretty clear and it does not relay any kind of instruction. It says that

Barclays "did not need advice," but that on the rate, "it did not always need to be the case that we appeared as high as we have recently." Was that not communicated to you by Mr Diamond?

**Jerry del Missier:** What was communicated to me by Mr Diamond was what I'd said earlier about political pressure on the bank, regarding Barclays's health and, as indicated by our LIBOR rates, that we should get our LIBOR rates down, and not be outliers; and there's nothing in the note which is in conflict with that conversation.

**Q892 Michael Fallon:** But the note really records two things, doesn't it—one just concerning Whitehall that Barclays rate submissions were always quite high and, secondly, the Bank's view that they didn't need to be high. There's no instruction there, is there?

**Jerry del Missier:** As I said, I acted on the basis of the phone conversation that I'd had.

**Q893 Michael Fallon:** Did you at any point over these two days take any legal advice on that?

**Jerry del Missier:** No, I didn't.

**Q894 Michael Fallon:** I see. Okay, and did the head of money markets query this instruction from you at all?

**Jerry del Missier:** We had a brief conversation. I explained the context and—

**Q895 Michael Fallon:** So he did query it.

**Jerry del Missier:** He asked the context of my conversation. I relayed the contents of what I had discussed with Mr Diamond and that was it.

**Q896 Michael Fallon:** But the reason he asked you was he must have been puzzled as to why he was being given this instruction; otherwise he wouldn't have asked you, would he?

**Jerry del Missier:** Well, I don't know what he was—

**Q897 Michael Fallon:** Well, what did he ask you?

**Jerry del Missier:** I don't recall specifics of what we talked about. It was a very brief discussion.

**Q898 Michael Fallon:** But it stuck in your mind that he did in fact ask you where all this had come from.

**Jerry del Missier:** Well, I owed him the context of the conversation. I wanted to make sure that he understood.

**Q899 Michael Fallon:** No, no; you said he asked you something.

**Jerry del Missier:** What I said was—

**Q900 Michael Fallon:** You said he asked you.

**Jerry del Missier:** Yes, and I explained the source of why we were talking—the conversation I had had with Mr Diamond about the conversation that he had had with Mr Tucker.

**Q901 Michael Fallon:** Did he ask this, in your view, because he was beginning to sense that what he was being asked to do was illegal?

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**Jerry del Missier:** I don't know what his thought process was.

**Q902 Chair:** You had one brief conversation with the head of money markets about this, and no further conversations with Bob Diamond. That is your evidence to us, isn't it?

**Jerry del Missier:** Yes, and as I said I also had a follow-up with a small number of the money market team again, where I relayed the contents of the conversation.

**Q903 Chair:** How often did you speak to Bob Diamond?

**Jerry del Missier:** Regular communication, but not always daily.

**Q904 Chair:** So several times a week.

**Jerry del Missier:** Yes.

**Q905 Chair:** How often did you receive an e-mail from him?

**Jerry del Missier:** Probably similar.

**Q906 Chair:** Okay; and you didn't find it worth while following this one up with a conversation.

**Jerry del Missier:** No.

**Q907 Chair:** Do you regret that?

**Jerry del Missier:** At this stage, I would—to do it over—I would have followed up.

**Q908 Mr Mudie:** You see, Mr Diamond told us that he did not believe the Bank of England had told him to lower the rate, and also he did not believe he told you to do so. Now, how could you misunderstand that conversation?

**Jerry del Missier:** I can only tell you what I clearly recall from the conversation. I wasn't on the call between Mr Tucker and Mr Diamond. I can only give you my recollection of that conversation.

**Q909 Mr Mudie:** So Mr Diamond was so incoherent that, from a conversation that he can clearly remember, you think he told you to carry out an illegal act. That's what it comes down to.

**Jerry del Missier:** Again, I can't speak to what Mr Diamond recalls. I can only tell you what I recall from the conversation.

**Q910 Mr Mudie:** The Chairman asked you how long did your instruction to the money market last, and you said, "Well, the markets change within a week," and then you tailed off, which rendered the whole issue—but you were still doing this into 2009, according to the regulator's report. You have been asked: did you follow up with the head of money markets what had happened? Did you not follow it up, find out what was happening, was it still continuing, put a stop to it, because it was unnecessary?

**Jerry del Missier:** By December 2008, the CFTC launched its investigation into the broad LIBOR issues. At that stage, the whole investigation had opened up.

**Q911 Mr Mudie:** But Barclays were still doing it, according to the regulators.

**Jerry del Missier:** Not—

**Q912 Mr Mudie:** You don't think so? Were you aware that they were doing it from 2007 onwards?

**Jerry del Missier:** Just a clarification: doing what?

**Q913 Mr Mudie:** Exactly. That failure to ask. It comes into two sections: from 2005 to 2007, the traders were doing it to improve profits at Barclays, and were doing it openly. I will come to that. But from 2007, the excuse changed qualitatively in as much as it is almost like your defence for doing it in 2008—that it was the market conditions that broke in 2007 and the position of Barclays' high submission was giving the marker of your financial positions. So you started—not you, but Barclays started—in 2007 fiddling the rate. That is why I am not surprised when you tell Mr Fallon that the money market desk didn't really question you. They must have wondered what world you were living in, because they had been doing it for a year. Did you not know about this at all?

**Jerry del Missier:** I was not aware that there was any sort of pressure applied to any of the LIBOR submitters in 2007.

**Q914 Mr Mudie:** You have read the report?

**Jerry del Missier:** Yes.

**Q915 Mr Mudie:** So you accept it was happening in your firm from 2007, in that form, and you didn't know anything about it?

**Jerry del Missier:** I did not know anything about the specific incident in late 2007 which is referred to in the report.

**Q916 Mr Mudie:** What about the 2005 illegal trading?

**Jerry del Missier:** No. I did not know about that. I first found out about it during the investigation in late 2009, early 2010, and, as the investigation went on, I became aware of the scale of it.

**Q917 John Mann:** So when Mr Diamond said to us, "there was pressure from the group treasury in... '07-'08...to get in the pack, if I can use that phrase", you knew nothing about that?

**Jerry del Missier:** Not until during the investigation, when I was made aware.

**Q918 John Mann:** So you knew nothing about that, but Mr Diamond did. Now, Mr Diamond told us that he knew nothing about the investigation till 2010 or 2011—I can't remember which, but certainly after 2010. But you knew about it in December '08, that is what you have told us twice.

**Jerry del Missier:** Well, the investigation was initiated in December '08 by the CFTC.

**Q919 John Mann:** And you knew about it at the time?

**Jerry del Missier:** Well, it was quite a public investigation that was being launched.

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**Q920 John Mann:** Into Barclays.**Jerry del Missier:** Well, into the markets.**Q921 John Mann:** And into Barclays.**Jerry del Missier:** Yes.**Q922 John Mann:** So you knew about that when Mr Diamond didn't. Can I check? You discussed this instruction—the October 29 instruction—with the head of money market. Did you discuss it with anybody else?**Jerry del Missier:** As I said, I had a follow-up meeting a few days later with several of the money market people and gave them—**John Mann:** You did indeed.**Jerry del Missier:** Yes.**Q923 John Mann:** Did you discuss it with anybody else other than those people who you have already identified?**Jerry del Missier:** No.**Q924 John Mann:** You are saying that this practice did not go on after the launch of the December '08 investigation.**Jerry del Missier:** Not that I am aware of.**Q925 John Mann:** So it only went on in November '08, in reality, is what you are saying to us.**Jerry del Missier:** I do not know that it went on in November '08.**Q926 John Mann:** If it did, it only went on in November '08—by definition.**Jerry del Missier:** By definition, it is a very short window of time.**Q927 John Mann:** And you are telling us that you had no knowledge of any submission of false rates of any kind—of the two types—in 2005 and 2006. You have no knowledge.**Jerry del Missier:** No.**Q928 John Mann:** In 2007, you had no knowledge.**Jerry del Missier:** No.**Q929 John Mann:** In the first seven to eight months up to September and the end of September 2008, you had no knowledge.**Jerry del Missier:** No.**Q930 John Mann:** And you read none of the ongoing concerns of others, be they regulators or academics, during 2007 and 2008 before you received this instruction—you weren't aware of any of that.**Jerry del Missier:** Oh, I was aware of all the extraneous circumstances and of all the press surrounding LIBOR—yes, absolutely—and the speculation about Barclays, and, frankly, had conversations about this often times about the state of the market and what was going on with other banks. I had a conversation with Mr Tucker about that.**Q931 John Mann:** So you were aware of the general debate. Were you aware of—I quote—“Senior

Barclays Treasury managers coined the phrase ‘head above the parapet’ to describe being an outlier on the U.S Dollar LIBOR panel”?

**Jerry del Missier:** I only became aware of that as a result of the investigation.**Q932 John Mann:** So you were not aware at the time of this.**Jerry del Missier:** No.**Q933 John Mann:** In any way.**Jerry del Missier:** No.**Q934 John Mann:** But you were in charge.**Jerry del Missier:** Well, I wasn't in charge of group treasury. That is a completely separate function.**Q935 John Mann:** So, according to you, the only time there could have been market manipulation was, from what you were aware of, November '08, but you were not aware that that was happening. Were you aware of any other market manipulations, separate from LIBOR, by Barclays during your time there?**Jerry del Missier:** Well, market manipulation, again, is something very different, because of the process. Most of November, our rates would have still been excluded from calculation of dollar LIBOR, so there is no effect on market. To really make an assessment of whether any manipulation is going on, you really need to have an understanding of where all the rates are on that day and where you are.**Q936 John Mann:** You have lots of analysts. Was there any other market manipulation, aside from LIBOR, going on during your time at Barclays?**Jerry del Missier:** Not that I am aware of.**Q937 John Mann:** No?**Jerry del Missier:** Not that I am aware of.**Q938 John Mann:** How come, then, that in a court hearing, Judge Newbould described how Barclays had “withheld the truth” from other trading partners in order to protect your own profits?**Jerry del Missier:** First, that is a case that is subject to appeal, but it is a case that has particulars that are completely separate from the kinds of things that we are talking about.**Chair:** I think there may be sub judice aspects to asking further questions on that. Perhaps we need to be cautious about what we ask.**Q939 John Mann:** We do indeed, but this is in the public domain, because it has been through the court. My question was whether Mr del Missier was aware of other market manipulation. The point that I have made is that a judge, in making a ruling against Barclays, has identified a significant market manipulation with the aim to “protect its own profits.” Isn't that what was going on with LIBOR?**Jerry del Missier:** No. The circumstances of that case are completely different, in the sense that they do not relate to an alleged manipulation of market rates. It is a commercial dispute between two counterparties.

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**Q940 John Mann:** They are completely different, but Judge Newbould has described it as “fraudulent misrepresentation”.

**Chair:** You should not be required to answer questions about a sub judge case, and I shall not be allowing you to do so. John, do you have other questions?

**Q941 John Mann:** The final question I have is this. When were you first aware that Lehman Brothers was having problems?

**Jerry del Missier:** Lehman Brothers’ problems stemmed back to 2007. I do not think anybody understood the extent to which they had financial problems until we got well into 2008.

**Q942 John Mann:** So you were aware, at the end of 2007 and into 2008, that Lehman Brothers was having problems? Wouldn’t it have been a shrewd strategy, being aware of that—Barclays was close to Lehman Brothers at that time—to submit false rates in order to protect Barclays’ position in the forthcoming problems that would emerge with Lehman Brothers?

**Jerry del Missier:** In 2007, we were no closer to Lehman Brothers than we were to any other competitor institution. In 2007, we could not even have contemplated that Lehman Brothers was going to have to file for bankruptcy.

**Chair:** John, you have one very last brief question and a brief reply, and then we’re going to move on.

**Q943 John Mann:** In 2008, you were a lot closer than your competitors to Lehman Brothers, weren’t you, in the run-up to their collapse? Would that be a rationale for fixing the LIBOR rates to protect Barclays’ position?

**Jerry del Missier:** We only got involved with Lehman Brothers on 12 September 2008.

**Q944 Chair:** Okay, we are going to move on, but before we bring in Pat McFadden, I just want to be clear. You said a moment ago that this practice, as you understood it—that is, the response to your instruction to the money market desk to low-ball LIBOR—lasted, in these exceptional market conditions, only a week or two, or certainly through the month of November. Is that correct? Was that the evidence you first gave?

**Jerry del Missier:** What I originally said, Mr Chairman, was that within a week, the market rates collapsed because of concerted action by central banks. Suddenly, there was no focus on any—

**Q945 Chair:** So what was the duration, the operability, of the instruction that you passed to the money market desk?

**Jerry del Missier:** I don’t know. Days, if at all.

**Q946 Chair:** Paragraph 49 of the Department of Justice report reads, “On at least a few occasions from approximately September 2007 through at least approximately May 2009, Barclays submitted improperly low LIBOR contributions”.

**Jerry del Missier:** I am not aware of any circumstances beyond late October to early November 2008.

**Q947 Chair:** What do you mean, you are not aware of it? We just had a full investigation. Is this news to you? Did you not know that this was going on in Barclays in May 2009?

**Jerry del Missier:** I am not aware of the specifics that are referred to in the reports.

**Q948 Chair:** The money market desk, when asked, will presumably tell us that they thought this was an open-ended instruction that justified action up to May 2009, will they not?

**Jerry del Missier:** I would say no.

**Q949 Chair:** So what were they doing low-balling LIBOR in May 2009?

**Jerry del Missier:** I don’t know what they were doing.

**Q950 Chair:** But they weren’t under your control, is what you are saying?

**Jerry del Missier:** I am not aware of the facts that are being referred to in May 2009.

**Q951 Chair:** But this is a Department of Justice report. You must be aware of the facts. There has been a full investigation.

**Jerry del Missier:** Yes, and as a witness I was outside the investigation.

**Q952 Chair:** But you have been following this closely, and have just resigned as a consequence of this scandal.

**Jerry del Missier:** Yes, I have resigned.

**Q953 Chair:** But you are still unaware of this?

**Jerry del Missier:** Of—

**Chair:** I am sure you will understand that for this Committee, that will strike us as implausible.

**Jerry del Missier:** It’s the facts, Mr Chairman.

**Chair:** Okay. Well, there are some implausible facts; it is a question of how many all at once. Pat McFadden.

**Q954 Mr McFadden:** Mr del Missier, can you remind us of your job title from the period, say, autumn 2007 through to the end of 2008?

**Jerry del Missier:** In autumn of 2007 I was co-president of Barclays Capital and in January of 2008 I became president of Barclays Capital, which was my job to the end of 2008.

**Q955 Mr McFadden:** So you were at the top of the investment bank. You sat at the head of it.

**Jerry del Missier:** Well, not entirely, Mr McFadden. My title was president, but I had responsibility for a large piece of it but not all of it.

**Q956 Mr McFadden:** Okay. Let me read to you something from the New York Fed’s website, which was posted a few days ago. They referred to a December 2007 phone call with Barclays on reported LIBORs appearing “unreasonably low”, and then they say that as part of the effort of looking into this, “on April 11th” 2008 “an analyst from the Markets Group queried a Barclays employee in detail as to the extent of problems with LIBOR reporting. The Barclays

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employee explained that Barclays was under-reporting its rate to avoid the stigma associated with being an outlier with respect to its LIBOR submissions". This is in April 2008, five and a half months before this phone call we've just spent the best part of an hour talking about. Barclays were doing this well before any phone call with the Bank of England. Is that not correct?

**Jerry del Missier:** I was not aware of that action until—subsequent to the investigation.

**Q957 Mr McFadden:** So the Fed are talking to your bank, who are admitting in April 2008 that they are under-reporting their LIBOR submissions, and you had no awareness of it whatsoever?

**Jerry del Missier:** No, there was, again, the context. There was a lot of discussion about what was going on—where banks were submitting. And keep in mind for the vast majority of that time, from '07 onwards, Barclays was an outlier on the high side—

**Q958 Mr McFadden:** I am just asking if you were aware of this.

**Jerry del Missier:** I wasn't.

**Q959 Mr McFadden:** You weren't. Right. But Bloomberg reported, a few months before this, on 3 September 2007—I quote from the Bloomberg article—"What the hell is happening at Barclays and its Barclays Capital securities unit that is prompting its peers to charge it premium interest rates in the money market?"

This is the FSA's findings I'm now reading from: paragraph 112. "Senior management at high levels within Barclays expressed concerns over this negative publicity" and this "resulted in instructions being given by less senior managers at Barclays to reduce LIBOR submissions in...to avoid negative media comment." So a number of people in your bank were involved in this, in response to a public article by Bloomberg. Were you aware of this at the time?

**Jerry del Missier:** Not at the time.

**Q960 Mr McFadden:** Paragraph 118 of the FSA report says: "On 29 November 2007" a "Barclays' Submitter had intended to submit a rate of 5.50 on that day. However he was overruled on a conference call during which the submissions were discussed, as a rate of 5.50 was expected to draw negative media attention...Manager E said"—I won't quote it entirely—"it's going to cause a...storm". Barclays therefore submitted a rate of 5.30, which was in line with another contributing bank's submission". This is November 2007. The best part of a year before this famous phone call. Were you aware of this going on in your bank at the time?

**Jerry del Missier:** I was not at the time. Again, this relates to conversations that were taking place with the group treasury, which was outside the investment bank. I happen to not even be—I was on leave at that time, and found out subsequently as part of the investigation.

**Q961 Mr McFadden:** Okay, let me take you to March 2008, this one is six or seven months before

this famous phone call, when "the FSA contacted Barclays' Money Market Desk"—the people you spoke to after the phone call—"to ask for information about Barclays' liquidity position. The FSA asked" them "to provide information including the rates at which Barclays was currently paying for funding in various maturities. The Submitter", from Barclays, "intended to state that Barclays was paying for one year funding at 'LIBOR plus twenty [basis points]'. The Submitter discussed this in a telephone conversation with Manager D. Manager D stated "yeah, I wouldn't go there for the moment [...] I would rather we sort of left that at...zero"...The Submitter stated "it's a sad thing really, because, you know, if they're truly trying to do something useful [...] it would be nice if they knew", but went on to acknowledge he had been worried about stating the "honest truth" because it might be a "can of worms". Barclays informed the FSA it was paying for one year funding at "LIBOR flat", rather than paying at LIBOR plus 20 basis points. Here is a conversation between a submitter and his manager at your bank in March of that year. Were you aware of any of that?

**Jerry del Missier:** No.

**Q962 Mr McFadden:** I have been able to cite to you three or four separate instances where managers and submitters in Barclays are talking about falsely submitting the LIBOR rates. Why is there any significance to this phone call with the Bank of England when you were up to your arms as an institution in dishonest activity in the year running up to that phone call?

**Jerry del Missier:** As I said, Mr McFadden, the fact that we had control breakdowns is clearly unacceptable, and that's why we're here and I deeply regret that. The bank has paid a large fine for it, it has implemented controls, it has learned and has hopefully taken the control environment to a different level. But again I come back to the context of where the world was in late October of 2008 and the involvement of the central bank.

**Q963 Mr McFadden:** But I am asking you about something different. You are expecting us to believe that the phone call between Mr Diamond and Mr Tucker was a significant new development that led to you—based on a misunderstanding or not—doing something way out of the ordinary by going to the money markets desk and asking them to, if you like, join the pack with LIBOR. How are we expected to believe that when month after month, time after time, in documents from the Fed and from the FSA it is outlined that you were doing that already?

**Jerry del Missier:** I am sorry, I—

**Q964 Mr McFadden:** Why is the phone call significant when month after month you as a bank were submitting false LIBOR submissions?

**Jerry del Missier:** It is a significant piece of information that, at the time when the financial crisis is at its very peak, the central bank, at a time when Governments are tangibly calling the shots, is passing on that kind of information.

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**Q965 Mr McFadden:** Isn't this just Barclays attempting to blame someone else for something that it was up to its armpits in doing for years beforehand anyway?

**Jerry del Missier:** Again, the actions that happened—

**Q966 Mr McFadden:** I am not talking about the traders' period; I am talking about the response to Bloomberg and the attempt to protect the bank's image. I am not talking about the traders' profits for their own desk period; I am talking about the second period. You were still doing it month after month in that second period.

**Jerry del Missier:** Again, the extent to which it was or wasn't going on I was not aware, but clearly it's a failure of control. And it's regrettable.

**Q967 Mr McFadden:** Let us go back to what Mr Fallon asked you. When you went to the head of the money markets desk, did he or she say, "Do you realise what you're asking me to do here? This is highly improper. We've never done this before", or did they say, "Well, you know, there's not really much new in that. We've been doing it for the past year", which is the true position?

**Jerry del Missier:** It was neither.

**Q968 Mr McFadden:** Give us a clue.

**Jerry del Missier:** It was a very brief conversation. I think that that individual was aware of the context as well. I gave them the full context of the conversation that I'd had with Mr Diamond about his conversation with Mr Tucker.

**Q969 Mr McFadden:** Wouldn't you have expected that if this was something that was just a failure of control within the Bank—the repeated attempts to do this in the previous year that weren't known by senior people—the head of your money markets desk would have pushed back a bit and would have said to you, "This is highly improper, what you're asking me to do here. Are you really sure that Bob Diamond's got this right? Are you really sure this is what the Bank of England are hinting at?" Would you not have expected some pushback, if this was not already part of the culture of the organisation?

**Jerry del Missier:** This was the reason we had a follow-up conversation with the desk, where I relayed the contents of the conversation. In that sense, it was not a business-as-usual situation.

**Q970 Mr McFadden:** If it was not business as usual, why were they surprised when we have all these instances brought out by the regulators' investigation, which show that Barclays were doing this repeatedly, month after month, in the run-up to this?

**Jerry del Missier:** I don't know why they would have been surprised or not.

**Q971 Mr Love:** Mr del Missier, did the FSA final notice report on Barclays clear you of any wrongdoing?

**Jerry del Missier:** Mr Love, I have been through a separate FSA investigation, which I was informed of

in March 2011. It was concluded in September 2011 with no follow-up action.

**Q972 Mr Love:** That is not the question I asked you. I asked you whether they had cleared you of any wrongdoing.

**Jerry del Missier:** Yes.

**Q973 Mr Love:** Let me point you to the comments of Mr Diamond when he was asked about this. He said, initially: "Jerry was cleared by the FSA when they investigated him. I may be using the wrong word, 'clear', but you know what I mean." What did he mean?

**Jerry del Missier:** As I said, I was investigated by the FSA. I was informed in March 2011. I met with the FSA in July 2011. In fact, I had obviously participated in interviews with US regulators as well. I was investigated as to the status of whether I was fit and proper. In September, the FSA informed me that no action would be taken and that there would be no follow-up.

**Q974 Mr Love:** That is not quite the same as clearing. So you accept that you were not cleared, but that you understand that there would not be any follow-up.

**Jerry del Missier:** I was cleared. The FSA was informed of my job change in June—just last month. In that sense, there was no action taken against me.

**Q975 Mr Love:** That I understand. The FSA report states that they "closed the investigation without taking any enforcement action." That sounds to me as if they had great suspicions but that they could not quite conclude an enforcement action. Would you agree?

**Jerry del Missier:** I don't know why they phrase things that way. I am not a lawyer.

**Q976 Mr Love:** How would you interpret that? Would you interpret that as a clean bill of health, that you have somehow been exonerated, that there was nothing of concern there? Or would you think that there was something that really did concern the regulators, but they could not quite produce the evidence necessary to take enforcement action?

**Jerry del Missier:** I only know what I was told in the letter, which I received from the FSA last September. I do not have any additional information.

**Q977 Mr Love:** By admitting to telling your staff to lowball, are you acting as a fall guy for Bob Diamond?

**Jerry del Missier:** I don't think I am acting as a fall guy. I have resigned my position for the bank for the good of the bank. I'm not the fall guy for anything. This happened to the bank and I've resigned as a result of it.

**Q978 Mr Love:** I accept that you have resigned, but Bob Diamond produces a note of his conversation with Mr Tucker. That note is, to put it at its finest point, ambiguous. From that note, you tell us that you went and instructed people in Barclays to lowball.



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Aren't you injecting yourself to save Mr Diamond from having to accept that these were orders that came from him? You've escaped, if I can put it that way, by a whisker from the FSA and other—US regulators—inquiries.

**Jerry del Missier:** My resignation was my resignation. I don't know why Mr Diamond ultimately left. That's between the board and Mr Diamond.

**Q979 Mr Love:** Are you under investigation by any regulatory authority at the present time, either in this country or in the United States?

**Jerry del Missier:** Not that I am aware of.

**Q980 Chair:** Back on this phone conversation with Mr Diamond that triggered it all, you remember that conversation well. You've referred to it several times as the thing that triggered your decision to speak to the money market desks. Does the file note represent fully what you heard of that conversation?

**Jerry del Missier:** The file note is consistent—

**Q981 Chair:** No, I didn't ask you that. I asked you whether it represents fully what you heard.

**Jerry del Missier:** The reason I say it's consistent, Mr Chairman, is that in a phone conversation, we wouldn't use those same words, but what I took away was—

**Q982 Chair:** Were any points of substance made in the phone conversation that are not reflected in the note?

**Jerry del Missier:** No, I—

**Q983 Andrea Leadsom:** Mr del Missier, are you and Bob Diamond good friends personally?

**Jerry del Missier:** We're professional friends, but we don't socialise very often.

**Q984 Andrea Leadsom:** Can you understand why people think this is either some monumental incompetence or a very cynical conspiracy to cover up what is very clear wrongdoing in Barclays for many years? Can you understand why people feel that?

**Jerry del Missier:** I can only relay what I recall from a phone conversation that took place. That's it. I can't comment on what other people recall from a conversation—

**Q985 Andrea Leadsom:** No, I'm asking can you understand why people, the general public, feel that this is either the most unbelievable incompetence or the most deliberate, cynical cover-up by you and Bob Diamond—people at the very top of an organisation that has been brought very low by this appalling lawsuit? Can you understand that?

**Jerry del Missier:** I can understand, given the circumstances that we find ourselves in, that there is resentment towards Barclays and the banks. I can tell you that to see the Barclays organisation—an organisation that has been around for an awfully long time—get characterised in this way is very painful.

**Q986 Andrea Leadsom:** Pretty appalling, yes. How much of your bonus over the last few years has been predicated on good controls within the bank? You have most recently been chief operating officer, haven't you? As president of BarCap and as COO, how much—what percentage roughly—of your bonus would depend on good controls?

**Jerry del Missier:** The control environment of the institution would clearly form a part—

**Q987 Andrea Leadsom:** A rough percentage—20%, 10%, 2%, 50%? You have no idea.

**Jerry del Missier:** I was never told.

**Q988 Andrea Leadsom:** Okay. I want to follow up on some very specific questions that colleagues have raised with you. On what date did you give instruction to the head of the money market desk to effectively bring down the submissions? Was that on October 29th or October 30th? What date was it?

**Jerry del Missier:** October 29th.

**Q989 Andrea Leadsom:** So on that same day. The note that Bob Diamond wrote of the phone call with Paul Tucker was written on October 30th. Was that to cover your backs, so that if the money market desk came back, you could point to this note and say, "The Bank of England made us do it"?

**Jerry del Missier:** I don't know why Mr Diamond wrote that note.

**Q990 Andrea Leadsom:** Did you know that he wrote the note?

**Jerry del Missier:** Subsequently—

**Andrea Leadsom:** At the time.

**Jerry del Missier:** Yes—

**Q991 Andrea Leadsom:** Did you know at the time that he wrote that note?

**Jerry del Missier:** At which time?

**Q992 Andrea Leadsom:** On October 30th, did you know he wrote that note?

**Jerry del Missier:** I only knew that he wrote the note when I saw it.

**Q993 Andrea Leadsom:** Which was when?

**Jerry del Missier:** I don't recall if it was the 30th or subsequent—

**Q994 Andrea Leadsom:** So it was after you had spoken to the money market desk?

**Jerry del Missier:** Yes.

**Q995 Andrea Leadsom:** So did you go back to Bob Diamond and ask him to write a note to cover your back—

**Jerry del Missier:** No.

**Q996 Andrea Leadsom:** Or his back? You absolutely did not ask him to write that note?

**Jerry del Missier:** No.

**Q997 Andrea Leadsom:** And he would corroborate that, would he?

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*Jerry del Missier:* Yes.

**Q998 Andrea Leadsom:** Who on the money market desk—which person—did you give the instruction to? Who is the head of the money market desk?

*Jerry del Missier:* Mr Mark Dearlove.

**Q999 Andrea Leadsom:** Mark Dearlove. And what exactly did you say to him?

*Jerry del Missier:* I relayed the conversation that I had had with Mr Diamond.

**Q1000 Andrea Leadsom:** No, what exactly did you say to him?

*Jerry del Missier:* I said, “I’ve spoken to Mr Diamond. He’s had a call from Mr Tucker.” I alluded to the pressure—the political pressure—around Barclays’ health, as demonstrated by our LIBOR rates, and that we should get our rates down and not be an outlier.

**Q1001 Andrea Leadsom:** So you explicitly instructed him to bring the LIBOR rate submissions down?

*Jerry del Missier:* I passed the instruction along, yes.

**Q1002 Andrea Leadsom:** Okay. So if we bring Mark Dearlove before this Committee, he will absolutely corroborate that, will he—that that is exactly what you said to him? He will not say to us, as Mr McFadden suggested—Question: what you were asking him to do suggests to you that that might not be compliant. Will Mark Dearlove tell us that is exactly what you said and that is exactly what he did, or will he give us a different account, do you think?

*Jerry del Missier:* I do not know what he would say fully, and I do not know what his recollection of the conversation would be, but—

**Q1003 Andrea Leadsom:** But would you expect Mr Dearlove to say, “Then I asked Mr del Missier, ‘Are you sure about this? This is not in the rules, at the very least, and this is breaking the law, at the very worst.’”? Would he tell us that that is what he said to you or not?

*Jerry del Missier:* I don’t think that is what he would say.

**Q1004 Andrea Leadsom:** And why don’t you think that is what he would say?

*Jerry del Missier:* I don’t know.

**Q1005 Andrea Leadsom:** Did he say to you, when you told him to bring in the LIBOR submissions lower, that would be against the law, against the rules or anything of that sort?

*Jerry del Missier:* I don’t recall the full specific of the conversation. As I said, it was a brief conversation, and we had agreed to set up a session with some of the money market people as a follow-up for me to give them, again, that context of that conversation.

**Q1006 Andrea Leadsom:** Going to the Barclays investment banking compliance function, on three occasions during 2007 and 2008, LIBOR issues were

escalated—on three occasions—and in each case, compliance failed to deal with those issues. Are you saying Mr Dearlove would have not had any communication with Barclays compliance on those three occasions? As the head of the money markets desk, in spite of Barclays investment banking compliance function having raised LIBOR issues on three occasions during 2007 to 2008, Mr Dearlove would not have been aware and certainly would not have raised with you the fact that falsifying LIBOR submissions might be against the rules or illegal?

*Jerry del Missier:* I became aware subsequently—

**Andrea Leadsom:** No, he.

*Jerry del Missier:*—as part of the investigation, that compliance was alerted of the nature of the request that had come in, but there was no follow-up back from compliance.

**Q1007 Andrea Leadsom:** But can you just answer me this? If the compliance function in the investment bank, which I assume Mr Dearlove was a part of, had raised the LIBOR issue on three separate occasions in 2007 and 2008, is it conceivable that the head of the money markets desk would not have been aware of that? Is that a possibility?

*Jerry del Missier:* Mr Dearlove would not have been a part of the compliance function.

**Q1008 Andrea Leadsom:** Okay, forget the organogram. Is it possible that compliance would have raised concerns about LIBOR fixings and the head of the money market desk would not have been aware of that?

*Jerry del Missier:* The money market desk, as I said, informed compliance of the conversation that had taken place, but then compliance had no follow-up.

**Q1009 Andrea Leadsom:** No, no, I am asking you about whether it is possible that Mr Dearlove could have somehow missed the point that the compliance function had raised concerns over LIBOR fixings three times during 2007 and 2008.

*Jerry del Missier:* No.

**Q1010 Andrea Leadsom:** That is not possible?

*Jerry del Missier:* No.

**Q1011 Andrea Leadsom:** He would certainly have known about those issues?

*Jerry del Missier:* Yes, he would have had conversations with the compliance function.

**Q1012 Andrea Leadsom:** Okay, so he would have known that the compliance team were concerned about the LIBOR submissions, and yet when you then told him, “Actually, now guys we’re going to reduce our LIBOR submissions”, he did not say anything to you—“Well, hang on a minute, compliance are already concerned about this. Why would I do that?”

*Jerry del Missier:* As I said, there was a message sent to compliance, as a follow-on from this request, but compliance never followed up.

**Q1013 Andrea Leadsom:** Sorry, do we know about this? I don’t think we know about this. Once you had

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asked Mr Dearlove to reduce the LIBOR submissions, you sent a note to compliance to tell them that was what you had done?

**Jerry del Missier:** No.

**Q1014 Andrea Leadsom:** So what compliance note are you talking about?

**Jerry del Missier:** The money market desk informed compliance of the request that had come in.

**Q1015 Chair:** I didn't know about that—so no control function, no compliance function, by the look of it.

**Jerry del Missier:** There was no closing of the loop.

**Q1016 Andrea Leadsom:** So Mr Dearlove sent a note to compliance saying, "Mr del Missier has told me to bring LIBOR submissions down."

**Jerry del Missier:** I don't know if it was Mr Dearlove or—

**Q1017 Chair:** But you do know that compliance was informed.

**Jerry del Missier:** Yes.

**Q1018 Andrea Leadsom:** And who was it in compliance who was informed?

**Jerry del Missier:** The head of compliance.

**Q1019 Andrea Leadsom:** What's the name of the person?

**Jerry del Missier:** Mr Stephen Morse.

**Q1020 Chair:** What did he do about it?

**Jerry del Missier:** I don't know. There was no follow-up back with me or with anyone in senior management.

**Q1021 Andrea Leadsom:** Prior to 29 October, had you ever instructed anyone to falsify LIBOR submissions?

**Jerry del Missier:** No.

**Q1022 Andrea Leadsom:** And had you ever instructed any trader or submitter to falsify any submission, including ISDA and SONIA and all the money market rates at your disposal? You had never asked anyone to falsify.

**Jerry del Missier:** No.

**Q1023 Andrea Leadsom:** Okay. You were yourself a derivatives trader.

**Jerry del Missier:** Yes.

**Q1024 Andrea Leadsom:** Could you tell us, for our information, how you would benefit your own bonus by asking the submitters to falsify the LIBOR submissions?

**Jerry del Missier:** It is very complex, and it is not entirely obvious that you are actually benefiting your own profitability, but the theory would be that if you got a certain rate submitted, the book that you were trading would benefit from that submission. It is important to understand that it is not even the whole bank—it is one particular book. On any given day, the

bank does not know whether it benefits from high rates or low rates but, again, because of the complexity of the averaging process, it is extremely difficult to see how one rate would have an impact, and then how that would necessarily flow through to compensation is very convoluted.

**Q1025 Andrea Leadsom:** Yes, and I would agree with you there from my own experience of LIBOR, but isn't it right that if you collude with other banks it is actually quite easy? Doesn't that then suggest that this is a widespread practice?

**Jerry del Missier:** I'm not aware of that.

**Q1026 Andrea Leadsom:** But doesn't it suggest that if people were falsifying LIBOR in order to benefit their own trading book, they must have been colluding, because otherwise, as you say, it would be extraordinarily difficult to benefit your own position?

**Jerry del Missier:** But then banks need all to be aligned in the same way on a given day—

**Andrea Leadsom:** Yes: collusion.

**Jerry del Missier:** And they have their own exposures.

**Q1027 Andrea Leadsom:** No, because it's about you being interested only in the profitability of your book and not caring about the position of the bank. Isn't the other astonishing point here, about the culture at Barclays, that derivatives traders were bothered only about their own profitability? They could not have known whether a higher or a lower LIBOR submission would benefit the bank as a whole, so they didn't care about the bank's position. They were interested only in their own book. So isn't it the case that if that is your motivation—to look just at your own profitability—and if you are in collusion with other banks on the point, you can artificially move LIBOR to suit your book?

**Jerry del Missier:** But it would require other banks to have the same exposures.

**Q1028 Andrea Leadsom:** Correct—grand collusion. Why did they do it then? What is the point, if you can't benefit your own book? Why would you bother?

**Jerry del Missier:** I don't know why they have done it, and it makes it all the more galling that the reputation of the whole organisation has been tarnished in this way.

**Q1029 Andrea Leadsom:** But you do agree that—this is an extremely important point—if you assume, which you must do, that a derivatives trader is an extraordinarily rational person who is highly numerate, they would not bother to manipulate LIBOR fixings unless they could find a way to make it benefit their position. Is that a fair assumption?

**Jerry del Missier:** You would assume that that is the motivation.

**Q1030 Andrea Leadsom:** They would not do it for fun, would they? They would be doing it to benefit their bottom line.

**Jerry del Missier:** One would assume that that would be the case.

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**Q1031 Chair:** A moment ago, you said that you were not aware of all this collusion going on—is that right?  
**Jerry del Missier:** Yes.

**Q1032 Chair:** Have you read the final notice by the FSA?

**Jerry del Missier:** I'm sorry, Mr Chairman, but I was referring to the period before the reports were published.

**Q1033 Chair:** Oh, I see. But you are now fully aware of the collusion?

**Jerry del Missier:** Yes.

**Q1034 Chair:** And you are aware that it appears to have been ex-Barclays employees, in large measure, who were conducting the collusion with then current Barclays employees, aren't you?

**Jerry del Missier:** I am not familiar with the full scale of the alleged collusion.

**Q1035 Chair:** But you have read what it says in the final notice report. It says: "At least 12 of the US dollar LIBOR requests made to Barclays' Submitters were made on behalf of external traders that had previously worked at Barclays and were now working at other banks".

**Jerry del Missier:** Yes.

**Q1036 Chair:** What does that tell you about the culture of Barclays?

**Jerry del Missier:** Clearly, this episode is a very poor reflection on an organisation, and I deeply regret what it has done to tarnish the brand, but the overwhelming majority of people in the organisation are highly ethical. They value their customers and clients, and care about how they do business.

**Chair:** Okay. Thank you very much for giving evidence this afternoon. It has been helpful to the inquiry.

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#### Examination of Witnesses

*Witnesses:* **Lord Turner of Ecchinswell**, Chairman, Financial Services Authority, **Andrew Bailey**, Head of the Prudential Business Unit, FSA, and **Tracey McDermott**, Acting Director of Enforcement and Financial Crime, FSA, gave evidence.

**Q1037 Chair:** Thank you very much for coming in. We are starting a little later than planned.

May I take you straight away, Lord Turner, to the letter of appointment that was sent to Barclays? What were you signalling in that letter, and was it of a generic type—the type you normally send out?

**Lord Turner:** I think it is a relatively generic type, in that a letter of about that length would be sent—

**Q1038 Chair:** I am not talking about length; I am talking about substance. Come on, let's go straight to the point. Do you normally give these sorts of sets of instructions that are set out in that letter?

**Lord Turner:** Yes, there is a list of comments that are specific and issues that have been identified in the interview process. Obviously, the particular ones here were of particular importance, and I know that Hector Sants, in conversation with Marcus Agius, drew attention in addition to particular issues that he was concerned about.

**Q1039 Chair:** Okay; and those concerns were?

**Lord Turner:** I know that he explained the FSA's historical concerns regarding Barclays' risk appetite and control framework, and that he drew attention to the fact that Bob Diamond was managing the area of the group where those concerns were foremost, and that it was therefore particularly important, in his new role as CEO, that he ensured continued progress in addressing those concerns.

**Q1040 Chair:** So you were expressing concerns about the way Bob Diamond would approach the job?

**Lord Turner:** I don't think it was necessarily specifically about Bob Diamond; it was more that we had a set of concerns about an attitude to risk and a

tendency—as we subsequently spelt out in the board meeting and in my letter—to push the limits of approaches to particular issues, and those had tended to come in particular in the areas where Bob Diamond was directly involved.

**Q1041 Chair:** Mr Bailey, may I turn to your appearance at the board? What led you to go to the board in February 2012 this year?

**Andrew Bailey:** I aim to go to the boards of all major institutions around once a year, so in that sense it was not a special event. What led me to raise the points that I did, and particularly the point concerning our view on the behaviour of the firm, was—this was set out subsequently in a letter to Marcus Agius—a series of events, quite a few of which had occurred before I moved to the FSA, and some of which occurred subsequently. Those events led me to be concerned about the behaviour of the firm in relation to us, and there was a repeated pattern of such behaviour that was not showing signs of changing.

**Q1042 Chair:** Did you say to them that the tone at the top was of concern?

**Andrew Bailey:** Yes, and I think they have now provided you with a summary of the board meeting. I've only seen that in the last few days, and the interesting thing for me was to see the summary of the discussion after I left. I gave, as I tend to do, a reasonably short presentation in which I highlight usually only three or four things that are material to us, and members of the board then ask me questions; and then I left. You will have seen it but to recap, it says that the board discussed "the need to get the tone from the top right."

**Q1043 Chair:** And you don't distinguish between tone at the top and from the top—they mean the same thing, do they, Lord Turner?

**Lord Turner:** I would have thought they are pretty much the same. I don't know whether Andrew intended any distinction, but I can't see a particular distinction there.

**Andrew Bailey:** It finishes by saying that resolving this was “critical to the future of the group.” Let me make one point that I think has come up in a number of your hearings. I did make the very clear point in my presentation that while we had a whole series of issues with the firm, I did not have evidence that Bob Diamond personally was involved. This was about the behaviour of the firm, of which he was obviously the chief executive.

**Q1044 Chair:** And therefore responsible.

**Andrew Bailey:** Yes. And I was very careful about this, because had I gone into the board and levelled an allegation about Bob Diamond personally, then I think the board would have reacted very negatively. They would have challenged me on the evidence, and I did not have the evidence. So I was very careful to make that distinction.

**Q1045 Chair:** Did you say that you felt trust had broken down between you and the regulator—between the regulator and Barclays?

**Andrew Bailey:** I did, certainly in respect of at least one of the issues that I used to illustrate it, to say that it had led to—I think I used the word “distrust”.

**Q1046 Chair:** What else worried you? Did you make all the points that were set out in that letter much later?

**Andrew Bailey:** I think I made a number of those, and I think the letter then actually gives a complete set of the issues.

**Q1047 Chair:** I'd be reluctant to ask too many leading questions, but let's just try a few. Would you say that it would be an unreasonable summary of the letter that you felt Barclays were trying it on?

**Andrew Bailey:** Yes. The sort of words that we would frequently use were that there was a sort of culture of gaming—gaming us.

**Q1048 Chair:** And that the regulator had had enough.

**Andrew Bailey:** Yes.

**Q1049 Chair:** And you were reading the Riot Act at that meeting in February.

**Andrew Bailey:** Yes. Bear in mind, this was very much consistent with the changes that we want to make in the style of regulation—that is judgment-based—and I always say to the boards when I go to see them, we are here only to highlight the big issues of concern in our judgment.

**Q1050 Chair:** And you were saying to them, basically, “This is no way to run a bank”.

**Andrew Bailey:** That it had to change.

**Q1051 Chair:** You would agree with that phrase.

**Andrew Bailey:** Yes, I would.

**Q1052 Chair:** Why was all this followed up by a meeting between Lord Turner and Marcus Agius?

**Lord Turner:** Well, after Andrew had been to the board, and before it, in the regular briefing sessions that I would have with Andrew and Hector, we had, on a number of occasions, discussed this pattern of behaviour from Barclays, and we had discussed the fact that it would be good for Andrew to talk about it at the board; but subsequently we decided we should reinforce that by a meeting and a letter from myself. I think that what happened was that another example came to our awareness, and also there was the tax issue—the tax structuring issue—which actually is not our direct regulatory responsibility; but we saw it as another example of a sort of pattern of behaviour. So at that stage the three of us decided that we should increase the clarity of the message that we were giving, and that I should have a meeting with Marcus Agius to very clearly set out that a sequence of events over the years was giving us an impression, as we said in my letter, about a pattern of behaviour, which we felt—precisely to your words—was trying it on, gaming the system. So that was the purpose of that meeting.

**Q1053 Chair:** This was ramming home the message that you were reading the Riot Act—for the avoidance of doubt.

**Lord Turner:** It was ramming home the message, absolutely.

**Q1054 Chair:** When you do that with a firm, what kind of reaction would you expect this to have on a chief executive?

**Lord Turner:** We would expect them to take it very seriously.

**Q1055 Chair:** Is it a big event?

**Lord Turner:** We would expect the chairman to talk to the chief executive. We would expect the chairman to talk to the board, and, indeed, Mr Agius's letter back to me stresses at the end that he and the board would take these issues very seriously.

**Q1056 Chair:** Perhaps we could turn to the evidence that Mr Diamond gave to us. He said that the “context of the discussion when it got to controls...I should call it the control environment—was that the focus and the tone at the top was something that they”—you, that is—“were specifically happy with.” This is in answer to question 15.

**Andrew Bailey:** Yes. I think this comes back to the point I made a few minutes ago, which is, I was very careful—I didn't use the term “tone from the top”; that's the term that Barclays have used—to make this distinction between the behaviour that I could observe, the direct behaviour that I could observe of Bob Diamond, and the behaviour of the firm.

**Q1057 Chair:** Could they have mistaken all these exchanges to be what goes on in any annual review?

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**Andrew Bailey:** I don't think so, for two reasons. First of all, I can say that in all the ones I've done in the last about 15 months, this is the only time that we've followed it up with a letter from Adair, and a meeting with the chairman. Secondly, when I saw, as I quoted earlier, the minute of the board meeting, it left me, I think, convinced that there was no question that they understood the point.

**Q1058 Chair:** So when Mr Diamond said to us "it was part of an annual review, so it is always going to have some things that they are going to be critical of and that we can do better"—that was his reply to me on this point—would that have struck you as somewhat misleading?

**Andrew Bailey:** I don't think that in any sense conveys the severity of the issue, and I think that's reflected in the board minutes. I don't think that captures the severity of the point we were making.

**Q1059 Chair:** You've read the evidence overall. Do both of you consider it to be a reasonable and fair assessment of their relationship with you at this time, or one that left gaps which could have led Parliament to be misled?

**Lord Turner:** The bit of the evidence which I was most surprised at was the bit that you have just focused on, where you asked, was there a letter and was this an issue of importance, because, let us be absolutely clear: Mr Diamond knew that there had been that letter. Indeed, at a subsequent meeting, which was on another subject—with myself, Hector Sants and Andrew, with the chairman, Chris Lucas, the finance director, and Bob Diamond—at the end of it, he said, "We would like to talk about the letter" and he said, "I am extremely concerned to receive this letter and we take very seriously what you said." And he said how distressed they were to have received a letter.

**Chair:** Quite a gap.

**Lord Turner:** So that was the bit. Quite a bit of the evidence—people sometimes do mis-talk under the pressure of your questioning. But that was the bit that, frankly, surprised me.

**Q1060 Chair:** I have never noticed you do that, Lord Turner. But in any case, you are basically saying that we were not left with a full and fair impression of what went on in those exchanges as a consequence. Is that correct?

**Andrew Bailey:** Yes, it's a highly selective choice, in my view.

**Q1061 Chair:** Yes, and, taken together, could be construed as misleading, which seems to have some similarity—does it not?—with the accumulation of concerns at the regulatory level which you find of concern, where any individual one might not be. Is that fair?

**Andrew Bailey:** Well, you can see a sort of similar strain of pattern of behaviour, yes.

**Q1062 Jesse Norman:** The FSA followed up your appearance on 9 February with a letter which was sent to Marcus Agius on the 10th. Now, you've suggested

to us that just Mr Agius's characterisation of the relationship as, as it were, normal cut and thrust, or some concerns about Jerry at the top, was actually misleading. Is that right, Mr Bailey?

**Andrew Bailey:** Well, I think that, as the board minutes suggest, this is a wholly different magnitude of issue to the sort of things—we normally discuss big issues, but this was a wholly different magnitude.

**Q1063 Jesse Norman:** Right. It's a different scale.

**Andrew Bailey:** Yes.

**Q1064 Jesse Norman:** You're going in there and you're giving them a bollocking.

**Andrew Bailey:** Yes.

**Q1065 Jesse Norman:** Because a whole series of things have gone wrong and you're angry about it.

**Andrew Bailey:** I'm angry about it and I'm also very clear that we had to grasp this nettle. This pattern of behaviour had been going on. You look at the cases in Adair's letter to Marcus Agius: they go back over a period of time. We had to grasp this issue.

**Q1066 Jesse Norman:** Why hadn't the FSA grasped it before? These things had been going on for several years. It was obvious to someone taking a view of the whole that Barclays was a mare's nest of acts of malfeasance of different kinds, which you were in the process of unpicking. We'll come to you in a second, Lord Turner. but why, Andrew Bailey, had that not happened before, do you think?

**Andrew Bailey:** I think the issues had been tackled what I might call individually, rather than sort of as a collection. So there had, prior to my time, been a very big issue around the Protium transaction—a well-known case that appeared in the press. Barclays had been forced essentially to unwind that transaction by a combination of action from the FSA and the financial reporting body. So it wasn't that action wasn't taken; it was taken. There had been a series of other issues, where action—

**Q1067 Jesse Norman:** Just to be clear, this was a transaction that was conducted with no economic benefit in order to avoid tax, in which senior Barclays people personally stood to gain.

**Andrew Bailey:** Well, it wasn't tax, so much—

**Q1068 Jesse Norman:** Or to protect the balance sheet of the bank.

**Andrew Bailey:** Yes, that's the gist of it, actually. It was a transaction designed to rearrange the balance sheet, to lower the capital requirement, which had no economic substance. So you didn't have risk transfer actually.

**Q1069 Jesse Norman:** And your concern is focused on those aspects, but also on the personal enrichments aspects of people self-dealing in the Barclays staff.

**Andrew Bailey:** Well, yes, because it was a series of Barclays' own staff who were on the other side of this transaction. All this pre-dates me, but I know the history of it.

**Q1070 Jesse Norman:** There were Barclays' staff on both sides of the Protium transaction.

**Andrew Bailey:** Absolutely, yes.

So action had been taken, but I think what hadn't taken place up until this point was to pull it together and say, "Look, take all this together. This can't go on."

**Q1071 Jesse Norman:** Okay. So it is not actually increasing the clarity of the message, Lord Turner, it is giving a different message. It is saying, "We are not nitpicking on small issues. We are giving you the benefit of the doubt. We are looking at the whole thing and we are going to give you a proper rocket."

**Lord Turner:** Yes, I think that is right. It was basically saying, "As you know, there has been a set of issues which we have argued with you on an individual, case-by-case basis and in all of them we have made sure that we got our way"—because we do ultimately get our way. Let us be clear, on the Protium structure we said, "No you cannot have a favourable capital treatment for this." On the monoline CVA positions we said, "We are not happy with your positions and you have got to, over a period of time, put this right." So we had dealt with these on a case-by-case basis but we got to the stage of saying, "These keep on happening and it is the accumulation of this that means that we have to send a message." It is in the first paragraph of my letter; I said, "Look, normally, if it was just one at a time, I would not get involved. I would leave that to the supervisory team and to the head of banking supervision to deal with it. But is it the accumulation that makes us believe that we have to draw this to the attention, from the chairman, to the chairman level."

**Q1072 Jesse Norman:** In other words, it is a problem with the culture and the leadership of the whole institution?

**Lord Turner:** That is what we were beginning to think. There was a cultural tendency to be always on one side and always to be pushing the limits.

**Q1073 Jesse Norman:** Thank you for that. Mr Bailey, did you report back to the Governor of the Bank of England on the experience you had with Barclays?

**Andrew Bailey:** No, that was an FSA conversation. I reported back to Adair. I said to Adair, "I think this is of a sufficient severity that it requires following up."

**Q1074 Jesse Norman:** And the Governor then raised his eyebrow, in part based on—

**Lord Turner:** This is later.

**Jesse Norman:** No, I understand, but when the raising took place, the Governor had a proper briefing because a pattern of events had been built up through briefings that originated—

**Lord Turner:** It is true that back sometime in about April, in the course of another conversation that I had with the Governor, I said, "I think it would be useful if you were aware of the letter that I have written to the Chairman of Barclays" and I therefore copied my letter over to Mervyn at that stage.

**Q1075 Jesse Norman:** Okay. Thank you. Mr Bailey, how often have you had these kind of conversations with other big four banks since you have come into place.

**Andrew Bailey:** As I said earlier, I aim to see the boards of the banks roughly once a year but I have never had a conversation of this type with a board—

**Q1076 Jesse Norman:** So Barclays is an outlier in terms of the severity of the bollocking you are giving them?

**Andrew Bailey:** Yes.

**Q1077 Jesse Norman:** Even though these other institutions are involved in, for example, the fixing of LIBOR, or in the swaps or in PPI?

**Andrew Bailey:** Barclays was an outlier.

**Q1078 Jesse Norman:** Okay. What were your specific concerns, Mr Bailey, about Mr Diamond?

**Andrew Bailey:** My specific concern was exactly this point about the tone from the top. Although I could not find the evidence that he personally had his hands on these things, you really could not escape the fact that the culture of this institution was coming from the top. Frankly although, interestingly, the relationship with Bob Diamond was not antagonistic, this was not something where he would come in and shout at me—or indeed, I think Hector Sants—and he would often say, "I hear what you are saying", I could not see a pattern where that was leading to the action that we needed.

**Q1079 Jesse Norman:** In your view, was the FSA tough enough before you came in, Mr Bailey?

**Andrew Bailey:** You have to put this in the context of the change in approach to supervision over the last year since the crisis. This is exactly where we are taking it to now. This is the most dramatic intervention but it is consistent with—Adair and Hector were very much on side with this—what we are doing with supervision, to respond to the identified problems of the past.

**Lord Turner:** I think the honest answer, Mr Norman, is that we would never have done this back in '07 and '08. We have been on a journey towards a tougher style of supervision in all sorts of ways. That has a tougher style in relation to issues of substance like capital liquidity asset quality. But more recently and, indeed, Hector Sants signalled that in 2010 when he made a speech about culture, we have been saying, "Do we have to reinforce those tougher messages on the specific quantitative issues of capital liquidity asset quality with tougher messages on culture as well? It is the accumulation of a change in the style of FSA supervision which really began six months before I joined the FSA. I joined in September 2008 but a change had been launched initially in about April 2008 but it takes time to drive those changes through.

**Q1080 Jesse Norman:** Thank you. Mr Bailey, based on your experience of Mr Diamond's testimony, do you think it is correct when he says that describing

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that as less than candid has had a “terribly unfair impact upon my reputation”?

**Andrew Bailey:** I am afraid that this is a process, in the sense of telling the story of what has happened and drawing the conclusions from it. On his reputation, conclusions must be drawn from it. I don't think I can offer any more of a view on it than that.

**Q1081 Jesse Norman:** A quick final question. Have you written, or has the FSA sent, any similar letters indicating some of these concerns on anything like this scale to any of the other major banks?

**Lord Turner:** This is the only letter of this sort that I have sent in my time as chairman of the FSA.

**Q1082 Chair:** You mentioned drawing conclusions from the facts. What conclusion did you draw?

**Andrew Bailey:** I drew the conclusion that there was a problem with this institution. The problem—I think the board had also drawn this conclusion—came from the tone from the top.

**Q1083 Chair:** Meaning Bob Diamond?

**Andrew Bailey:** Yes.

**Q1084 Mr Love:** Can I take us back to the origins of the LIBOR investigation? LIBOR is set in London, and Barclays is a British bank with its headquarters in London, yet you had to rely on the United States regulators to find out about LIBOR manipulation. Was the FSA asleep at the wheel?

**Lord Turner:** I don't think that is fair in this case. Maybe we should ask Tracey to go through the details of the timeline, but the essence of it is that back in 2008, the CFTC—really on the basis of market rumours rather than knowing anything concrete—said that they wanted to start investigating the issue. From a very early stage, they were in contact with our enforcement division.

It is the nature of these enforcement activities across the Atlantic—or between any other authorities, but most often across the Atlantic—that sensible choices are made once one organisation has got going on it. Then the other says, “Okay, we'll see what you find out in the search process. We'll help you with it. We'll help facilitate the delivery of documents and the passing on of messages in any way required, and we'll be close to you, but you lead it for now, and then we'll decide whether we ourselves are going to get directly and formally involved.”

The FSA—it might be best if Tracey talked to this a bit—was involved with the CFTC during 2009. The formal announcement that we had our own formal investigation—sorry; it was not an external announcement but an internal process saying that we now had a formal investigation—did not happen until May 2010, but we were involved with the CFTC before that. I think it might be best if Tracey, who is closer to it—

**Q1085 Mr Love:** I am perfectly happy for you to respond, but let me add to that. Prior to the notification from the CFTC, had you heard any allegations or received any evidence about manipulation? In our inquiry so far, we have heard

extensively about concerns over that issue. Did you at any time receive those concerns, and why didn't you act on them?

**Tracey McDermott:** Can I take that in two parts? First, on the CFTC investigation and our involvement in that, as Adair said, we frequently do investigations across the Atlantic, and indeed across Europe, working with other authorities. The key aim in all those is to try to work out the most efficient and economic way of getting to facts. On the investigation that kicked off in 2008, as Adair said, there was an initial discussion between us and the CFTC, and then a series of requests for data was sent to Barclays, which came from us after discussion with the CFTC. That information was being provided through 2008. Barclays were undertaking a massive task then of reviewing material. I think that they have given some data in their submissions, but it is something like 22 million e-mail records, tens of thousands of audio files and so on.

That information then started to come through during the course of 2009. Towards the end of 2009, it became clear that what that was revealing was some serious concerns. At that stage, we increased our engagement with the CFTC and with Barclays. As Adair said, we started our own formal investigation in May 2010. We started our formal investigation then, not because we were lacking information previously, but because at the stage it was apparent that we may, ourselves, want to take formal action, or we may want to use formal powers to require people to attend for interview and so on. It was at that stage, actually, that the interviews started. So the CFTC, in the 2009 period, had not been conducting interviews; it had just been gathering data.

**Q1086 Mr Love:** But would you accept that if it hadn't been for the CFTC, your investigation might never have got underway at all?

**Tracey McDermott:** I think that goes to your second point in relation to what we knew about LIBOR and when. I think it has been said—I think a number of times in front of this Committee, and more generally—that it was widely known in 2007 and 2008 that the LIBOR market was not operating in the way it had previously done. There was not as much trading inter-bank as there had been historically. Therefore, in what we would describe as a “thin market”—where there wasn't a lot of trading—it was becoming more difficult to set LIBOR.

Now, that was widely known. There were a number of conversations, which we set out in the final notice, where indications were given that there may be some issues there. We can obviously talk more about those in detail, but there were indications that the BBA, who were the primary parties responsible for setting what the submissions should be and how they should be fixed, commenced a review in early 2008, which we participated in.

**Q1087 Mr Love:** I do not mean to rush you, but what I am trying to get at is: why would it be that an authority, a regulatory authority from another jurisdiction, would get it right and you didn't get it right?



**Tracey McDermott:** I think the CFTC was starting to make inquiries at that point at a time when we were also engaged with the BBA review. It is obviously hypothetical to say, "Well, if the CFTC had not got involved would we have done that?" I don't know. I cannot answer that question, but the fact was that at the time we were engaged with the BBA. We were looking at the BBA review of LIBOR.

**Lord Turner:** May I say, it is a perfectly legitimate question—obviously, it is a legitimate question, but it is a perfectly good question—as to why did we not pick up some of the signals that there might be problems? If you look at the document that Barclays provided to you two weeks ago ahead of the Bob Diamond interview, it colour-coded 13 instances where Barclays said something to the FSA. Now, you would not be surprised to know that I have now looked at all of those, and I have also asked our internal audit department to do a complete drains up on all of those contacts, which there were between Barclays and us, and should we have responded to them?

It is also true to say that the three where you might have said it was closest to "Why didn't somebody spot the problem?" are in the final notice. They are in the document that we produced on 27 June, in paragraphs 128 to 130, 131 and 172 to 174. They are there because we had to deal with the issue as to whether they had been open enough with us that we might consider that in some sense a defence, or at least a mitigation. If you look at the argument there, it says that, no, they were never open enough with us. They were giving us sort of coded messages that other people might be cheating, but not them.

So those three out of the 13 are the most arresting in the evidence base, but it is still a legitimate question to say, well, okay, there nevertheless were some sort of bits where people could have said, "Isn't there a problem?" and "Why didn't we pick it up?" That is a question we need to answer.

**Q1088 Mr Love:** Let me carry on. May I ask Ms McDermott, how did you calculate the fine of £85 million? Very briefly.

**Tracey McDermott:** Okay, I will try and be brief. The penalty is set in accordance with our penalty policy that was applicable to misconduct at the time. We are required by the Financial Services and Markets Act 2000 to publish a statement of our policy. At the time, there was no arithmetical calculation that applied. We take into account a number of factors, including the seriousness of the misconduct and including the level of co-operation during the investigation.

**Q1089 Mr Love:** You are saying that there is not a formula; you took into account certain factors.

**Tracey McDermott:** We have a list of factors that we take into account.

**Q1090 Mr Love:** The United States regulatory authorities imposed fines four times the level of the FSA fine. The FSA fine, the £59 million, was about 1% of their pre-tax profits. How do you justify the sufficiency of that as a fine?

**Tracey McDermott:** In terms of the US authorities, they calculate their penalties in a completely different way, and in accordance with their own statutory frameworks. We are bound to follow the penalties policy we had in place at the time.

**Q1091 Mr Love:** But was it appropriate in the context of Barclays's pre-tax profits of £5 billion?

**Tracey McDermott:** We believe that it was appropriate. I think, as has been shown amply by this case, the impact of enforcement action is not just about the level of the penalty; it is also about what comes out in the public domain and the reputational impact that follows. This was the most significant penalty we have imposed. It was almost twice the highest penalty we have imposed in the past. That reflected our view that this was the worst misconduct.

**Q1092 Mr Love:** Lord Turner, you have spoken subsequently about the changes that have been made at Barclays, in order to address the serious issues that were highlighted in your report. However, the CFTC has imposed a series of conditions on its agreement with Barclays. Why didn't the FSA choose to do that?

**Lord Turner:** The CFTC is not a supervising agency. It is effectively something that operates entirely through an enforcement process. Therefore, when it wants to get a change in practice, it will do that—and Tracey will confirm this, as the lawyer—as a condition of its settlement. We had already made steps to ensure that all of the firms had improved their supervisory approach. Indeed, in January 2011, we decided on, and in early February 2011 executed, a requirement for all the major firms to attest to us whether they had improved and put in place adequate sets of procedures in relation to the supervision of the LIBOR process. That was our equivalent of that process. We don't do it as a condition of the settlement. We were doing it as part of our normal supervisory process.

**Chair:** We are going to have move on, Andy.

**Q1093 Mr Love:** Just one final question. Why then did the CFTC find it necessary to impose those conditions when the changes had already been instituted?

**Chair:** Very briefly, please.

**Tracey McDermott:** The reason is because otherwise it does not have jurisdiction to enforce any breach of those conditions. So, it is to make it easy for it to enforce a breach in future.

**Q1094 Stewart Hosie:** Lord Turner, Mr Diamond told us that the LIBOR manipulation during the first period, 2005 to 2007, was effectively the work of some rogue traders. Do you accept that defence of the few rotten apples? On the basis of what you know now, do you think the practice was far more widespread?

**Lord Turner:** Well, first it is worthwhile saying that what was going on in '05 to '07 was not something that anybody, even the CFTC, had initially suspected in '07–08. It emerged in the course of the investigations. Secondly, it is true to say that investigations into other banks are occurring in our

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jurisdictions and in other jurisdictions across the world. So, I think it is probably the case that the total number of people identified in this investigation and others will end up as a relatively small number.

Nevertheless, there does seem to have been a culture that allowed this to occur. One of the shocking things about this is that on some occasions, the derivatives trader is not asking the submitter to change his submission on the basis of a hidden phone call or a note that he believes is hidden, but by shouting it across the trading floor. That suggests something is deeply wrong with the culture that could possibly have allowed that to occur.

**Q1095 Stewart Hosie:** I will come back to the derivatives traders and the fact that this was not suspected. In terms of the traders who have been caught, it was because they left an electronic trail. If they speak informally orally in the pub, outwith the recorded net, there could be many more. Is this the tip of an iceberg?

**Lord Turner:** Almost by definition, I don't know, because I only know what we are capable of finding out. I would be amazed if it is everything, precisely for the reasons you suggest. If people are acting in a way that leaves a legally identifiable trail, it would be very surprising if there are not other activities without a legally identifiable trail. We know in general that market abuse or manipulation of any category is incredibly difficult to spot, because often people are clever enough to do it in a verbal, off-the-record, off-the-legal-trail basis.

**Q1096 Stewart Hosie:** Your conclusion in the final notice says in paragraph 182, "As a consequence, internal requests continued to be made to Barclays' Submitters in 2008 and 2009 and a Derivatives Trader did not escalate to Compliance a request from an external trader in April 2011." Is this still going on? Are you still looking for it going on?

**Lord Turner:** Well, we are certainly pursuing investigations wherever they take us, and that would involve looking at wherever the data take us.

My strong suspicion is that if it is going on, it is on a massively reduced scale. The final notice—I forget which paragraph—sets out that Barclays itself was making improvements in its control processes from late 2009 onwards, and further improvements in 2010. From early 2011, we were drawing the attention of all firms to the need to attest to us what their control processes were. The sheer publicity of this probably means that it has reduced in its incidence, so my strong suspicion is that the vast majority of this lies in the derivatives and swaps traders area in the '05 to '07 period and the low-balling, for reputational reasons, in '07–08, and that there is a trail thereafter. That is my best assessment of what is likely to be the case.

**Q1097 Stewart Hosie:** Again, I will come back to these dates—2010, '09 and '08—in a moment, but prior to this investigation, or prior to the FSA first knowing, did you or any of the staff even consider this sort of manipulation to be a theoretical possibility?

**Lord Turner:** I do not think that I had ever thought about manipulation of LIBOR until I was informed of the developing possibility of a case that, as best we can work out from the record, was some time in mid-November 2009, when Hector Sants briefed me, as he would regularly, on major enforcement cases. He would not brief me on everything, but he would say, "Look, there's something that could end up being quite big here." He actually suggested that there were some specific issues in relation to it, which made it sensible for me to have a direct meeting with Margaret Cole, the then head of enforcement, about it. That was not part of the normal process, and not something that had happened in other areas. I do not think that I had ever previously thought, or that it had ever occurred to me—either in my time at the FSA, or in my time in areas of finance before the FSA—that this was something that you could manipulate, but that is simply because I had not thought about it.

**Q1098 Stewart Hosie:** If you submit an extraordinarily high rate, the fifth highest rate, which would otherwise have been excluded, is included in the calculation, and the LIBOR average moves up. If you submit a very low rate, the fifth lowest, which would otherwise have been excluded, is included in the average and the average is pulled down. It is very simple. It is even easier to shout across to the dealer on the trading room floor to have a rate submitted for your bank loan outwith the average, so there was not an awful lot of complexity in this.

I am perplexed. The CFTC began an investigation in 2008. You, Ms McDermott, said that there were serious concerns in 2009, and it all began to come to a head in 2010. Nearly seven and a half years have gone by between 2005—the date identified in the investigations—and today, so why did much of this go unchecked? Was it something to do with the level of supervision and who you had in the banks—not just Barclays, but across the board? Why was this theoretical possibility effectively ignored when, at face value, it is such an easy fiddle?

**Lord Turner:** I think that you are absolutely right that, in retrospect, the process of fixing LIBOR was not an accident, but a deliberate manipulation, waiting to happen. Bluntly, I think it is one of those stories like the "frog in the boiling water" story. LIBOR gets created back in the '70s or so. It is fundamentally an instrument to do with the pricing of unsecured funding between banks and a relatively small number of contracts. It develops to become the thing that is used to price a whole load of derivatives that did not exist when it initially was put in place. Along that progress, nobody sits down and says, "Wow, we'd better look carefully at this system, which is supporting this whole structure of the \$500 trillion derivatives market."

Let us be clear that part of the story of the FSA at that time is that we did have—we never used the word, but we did have—a somewhat light-touch approach to regulation, particularly in those areas that we thought were about wholesale conduct. This was thought of as being things to do with relationships between professional counterparties, and the predominant ethos of the time was that that could be and should be left

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to somewhat self-regulatory approaches. We were only to a very small extent focused on the investment bank activities of our major banks. You may remember from our RBS report, which we discussed earlier this year and produced at the end of December, that back in 2007–08, we only had about five people on Barclays and five people on RBS. Indeed, at one stage, we had only about one person, and I think they were shared between Barclays and RBS. It was simply not a crucial area of focus.

**Q1099 Stewart Hosie:** Indeed. Given the rise in derivatives dependent on LIBOR—figures of between \$500 trillion and \$800 trillion, which is just an inconceivable number for anybody—this goes back to previous failings of the FSA, doesn't it? It is about having the wrong people—too-junior people—who are unable to price the products or work out how the fiddle might occur.

I ask the question again. This report tells us that it began in summer 2005; it may have been earlier. For years, there was manipulation going on, first under everyone's desks, and then as reputational management, and nobody spotted it. Even when Bloomberg, the *FT* and others were publishing information in 2007—quite late, but nevertheless published—did the FSA take a decision to look at what the banks were doing, based on the published concerns at that time?

**Lord Turner:** This is what I have asked our internal audit department to produce a report on. My present assessment is as follows. There were fragments of information that were coming in from Barclays and probably some other banks to our people—relatively junior people—who were monitoring liquidity, but their focus was not on the mechanics of setting the LIBOR rate, but on the realities of liquidity in the marketplace. It was a time when the FSA was getting much more serious about understanding the liquidity challenges, having not responded quickly enough back in 2007.

There were fragments of information, which in retrospect you can look at—paragraph 131 is one—and say, “Why didn't you pick up the odd phrase that it was ‘clean in principle’ but not ‘clean clean’? Why didn't someone say, ‘Red flag up. Here is a problem’?” The answer is that they were looking at all sorts of other things. It was at a relatively junior level and was not escalated within the FSA, as best I can tell, to any high level of seniority.

In so far as people did say, “There is an issue here”, I think there was an implicit assumption that says, “Okay, this is for the BBA to fix.” The BBA announced a review of LIBOR, if I remember rightly, in May 2008, which reported in August 2008. That may be wrong in retrospect, but that was the assumption that was made at the time.

**Chair:** We have to move on.

**Stewart Hosie:** I have one very quick final question.

**Chair:** A quick answer, please.

**Q1100 Stewart Hosie:** The Bloomberg and *FT* reports were in September 2007, around the time of the run on the Rock, prior to the crisis proper. The point you made earlier was that the CFTC began its

investigation on the back of market rumours. What did it pick up that the FSA missed with information that was coming out the year before, in 2007?

**Lord Turner:** All I can say is that, in what I have seen so far, it is not that at any stage there was a discussion at the executive committee, or any committee, to say, “There's this stuff in Bloomberg and *The Wall Street Journal*. Should we look at it? No, we shouldn't.” Maybe the internal audit review will reveal that, and we need to know that, but so far, it seems there was simply an absence of a response to that.

It is true to say that a lot of people at the time did not pick that up. Those were articles that some people read, but it did not turn into something that everybody was talking about. Certainly, within the FSA, it does not seem to have been picked up as an issue that people responded to. That is the fact of the case at that time.

**Chair:** That is something we will probably return to.

**Q1101 Andrea Leadsom:** Yes, very soon. Paul Tucker said, when he came before us, that the Bank of England was not responsible for ensuring the accuracy of LIBOR submissions. Who is, or was, responsible for ensuring the accuracy of LIBOR submissions?

**Lord Turner:** Ultimately, the people responsible for ensuring the accuracy of LIBOR submissions are the submitters in the individual banks.

**Q1102 Andrea Leadsom:** No, I mean in a regulatory sense, obviously.

**Lord Turner:** LIBOR submission is not a formally regulated process. Tracey can talk about the specific legal situations that have had an implication for the type of cases that we can bring. It is not what is called a qualifying instrument. It is not covered by section 118 of the Act in relation to market abuse, etc. What is true to say is that the FSA, in any area of activity, has an ability to say, “I want to supervise systems and controls.” We have a responsibility or a right to supervise systems and controls, and therefore it would be wrong of us to say that we could not have supervised it; we could have dived into it.

**Q1103 Andrea Leadsom:** I am asking you if you should have, not could have; obviously the FSA could have. Mr Ruffley was saying earlier to Mr del Missier that the US Department of Justice has specifically said that falsifying LIBOR submissions was illegal; that is the clear implication. You are saying that that is not the case; if nobody is responsible for regulating them then, because it is not illegal, they are not legally regulated. Can you be very specific?

**Lord Turner:** No, I draw a bit of a distinction there. Nobody has been defined specifically as being responsible for supervising it, in the sense of demanding that we have an attestation of adequacy of risks and controls, but we could always have done that, and that is illustrated by the fact that, as the severity of these problems emerged, as I have said already, in February 2011, we sent a letter to all the major banks saying, “We want that attestation.” That is what we would call supervision.

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When you get to the issue of regulation as it has legal consequences, it is a bit different in the US, versus the UK, as to under what specific categories of offence it relates to, and whether it is criminal or our rules, which are not criminal. I think it might be best if Tracey talks to that, since she is the lawyer.

**Q1104 Andrea Leadsom:** If you would in a moment, Ms McDermott. First of all, Lord Turner, Barclays bank's illegal activity involved manipulating its submissions for benchmark interest rates in order to benefit its trading positions. Your assessment is that the United States Department of Justice makes that point as it is relevant to its own criminal laws, but that would not be the case in the UK. Is that what you are saying?

**Lord Turner:** My understanding is that the FSA is not able to bring a criminal case in the UK. If it falls within the category of fraud, which is a general category of malfeasance quite separate from financial regulation, the Serious Fraud Office has a right to look at it, and we have been in contact with the SFO throughout this. I think that it announced a week or so ago that it would increase its focus on this issue. In the UK, this issue—as I understand it, but I would defer to my legal expert here—is not one where we, the FSA, have an ability to bring a criminal case, whereas there are some other specific categories of market manipulation where we are able to bring criminal cases.

**Q1105 Andrea Leadsom:** Thank you. Ms McDermott, can you specifically address the difference between the US approach, which is to say that it is illegal, and the approach here? Also, could you comment on false accounting and collusion? Are none of these impermissible, shall we say, under British law?

**Tracey McDermott:** Just to start off with the US versus the UK, the DOJ—the Department of Justice—in the US is a fraud prosecutor. It does not have a specific markets remit, although some of the fraud actions it takes are obviously in connection with the markets. Similarly, the CFTC, and indeed the SFC, have very broadly drawn general statutes, which draw on what the Americans call fraud. Actually, it is not precisely the same definition as it would be here, particularly because they can use it in a civil sense as well as a criminal sense, but broadly, their jurisdiction is defined in a very different way.

In terms of the FSA position, as Adair has said, we are not a general fraud prosecutor. We have specific powers to prosecute particular offences, and I am sure that you will be aware that we have spent quite a lot of time and energy on prosecuting both section 397 offences and indeed insider dealing offences in recent years. What we do not have is a remit to prosecute false accounting, conspiracy and so on in a general sense. We could prosecute it as ancillary to one of our main offences, so if there was a markets offence, you could throw in money laundering as well, but our investigative powers are limited to the offences that we have the ability to prosecute.

**Q1106 Andrea Leadsom:** Could you just confirm that, as far as the FSA is concerned, you have no ability to prosecute either the LIBOR submitters or those who urged them to do what they did?

**Tracey McDermott:** I want to be very careful about this, because the SFO has actually announced that it is investigating LIBOR generally.

**Q1107 Andrea Leadsom:** But the SFO is different from the FSA.

**Tracey McDermott:** I am conscious that if there are subsequent prosecutions or subsequent action taken by the SFO, or indeed any other authority, anything that is said here may be something that comes up in that, so I just want to sound a note of caution about speaking about the position of particular individuals.

**Q1108 Chair:** Martin Wheatley is looking at this gap, isn't he?

**Tracey McDermott:** Martin Wheatley is focusing, in the review that he will be doing, on whether there is a gap in our jurisdiction. We concluded that there was no realistic prospect of us prosecuting the misconduct, using our markets offences. That does not mean to say that the SFO will not come to a different conclusion in its assessment.

**Q1109 Andrea Leadsom:** Can you, in a quick answer, tell me whether you consider that that is a weakness in the bank supervisor? Obviously, it is going to change from the FSA to the PRA, but do you think that the PRA should have the ability to prosecute cases of this sort in the future?

**Tracey McDermott:** Actually, that would stay with the FCA, because the FCA will be the conduct regulator. As the Chairman has said, this is an issue that Martin Wheatley needs to look at as part of the overall review. Certainly, there will be different ways in which you could define our offences that would have enabled us to consider prosecution here, but it is very important that that is looked at in the round, and that we do not just create specific offences to deal with one-off instances and then find that we have another loophole somewhere along the line.

**Q1110 Andrea Leadsom:** Absolutely. This is probably one for Lord Turner: have you attempted to identify whether Barclays derivatives traders were successful in benefiting their book from their rogue trading activities, or rogue submissions of LIBOR? If not, will you be attempting to find out whether they benefited individually and personally?

**Lord Turner:** Again, Tracey can give the greater detail on this, because she is clearly much closer to the investigation. The essence of the answer is no. We brought a set of cases that did not require us to prove that there had been effective manipulation, and did not require us to work out precisely what the LIBOR would have been if there had not been this attempted manipulation. That would be a very complicated thing to do, because you would have to work out what they would have put in when they did not put this in, and then you have to work out what that would have done to the average.

**Q1111 Andrea Leadsom:** You could make some assumptions using credit default swaps; it is not impossible.

**Lord Turner:** It is not impossible, but I think that the judgment of enforcement has so far been that this was not necessary. The point that Tracey made earlier is that one of the things that enforcement always have to do is work out what is an effective use of their resources. There is an almost limitless set of things that we can investigate, and their approach so far has been to focus on getting the case that they thought was the clearly provable case, which was on attempted manipulation, rather than on actual effective manipulation. That is the process so far.

**Q1112 Andrea Leadsom:** I understand that, but equally, there is a very important public interest point on how this could have happened. Mr del Missier has just thrown his hands in the air and said, "I wouldn't have thought it was possible—certainly not very easy." How could it have happened? Bear in mind that the traders who were doing it are rational people; they would not have done it unless they thought that they would profit from it, so there is a very important point here, about whether they were successful.

**Lord Turner:** Your point is absolutely right. The fact is that although it is very difficult to work out exactly what would have changed with the LIBOR rate if they had not been manipulating, you have to assume—I heard your questioning earlier—that if someone had been induced to put in a higher figure than they otherwise would, LIBOR must have been at least some small bit higher, and you have to assume, as you say, that these traders were not entirely irrational, or that they believed that they were having an influence. Of course, the crucial issue here is that we are dealing in the derivatives market, with an environment in which minute movements in the LIBOR rate might have a very significant impact on very specific positions that they were holding at that time. That is somewhat different from, for instance, the consumer market, where single basis point movements would be unlikely to have a really material effect on, say, the cost of a mortgage.

**Q1113 Andrea Leadsom:** Absolutely; I understand that. Just as a matter of fact, do you agree with Mr Diamond's evidence, that Barclays has spent £100 million on trying to support this investigation?

**Lord Turner:** Tracey probably is in a better position to answer that than I am.

**Tracey McDermott:** I do not know the precise number that it has spent on it, but I do know that it has bent over backwards to try to move this forward. I think I mentioned earlier that it has reviewed millions and millions of e-mails—it has had independent third parties doing that work—and it has been, as was recognised not only by us, but by the US authorities, extremely co-operative in trying to push this forward. I do not know how much exactly it has spent, but it will be a large amount of money.

**Q1114 Andrea Leadsom:** But £100 million is a huge sum, isn't it? Is that feasible?

**Tracey McDermott:** Lawyers are very expensive. They used external lawyers.

**Q1115 Chair:** You have got more investigations still going on. Do you think that Barclays has been unfairly hit by first-mover disadvantage, Lord Turner?

**Lord Turner:** I think what has happened is entirely fair, in the sense that a process has gone through that has led to this final notice, and that has recorded the fact that it was attempting to manipulate in two different ways in the two different periods, and it accepted that and agreed to it. I do not think that is unfair. In fairness, it is important, as Tracey has just said, to record as a balance to that that it was very co-operative with us. I do not think you can say that there is an unfairness in the process that led to the publication of our final notice, or the judgments of the DOJ.

**Chair:** That was not quite what I asked, but I will let it pass.

**Q1116 Michael Fallon:** Tracey McDermott, whatever your legal powers, is it not a bit disingenuous to tell us that the FSA was aware that the LIBOR market was not operating properly, or was a thin market, in '07, when the FSA was present at a meeting of the Sterling Money Markets Liaison Group, and when it was recorded that several group members thought that the LIBOR fixings had been lower than actual traded inter-bank rates?

**Tracey McDermott:** I was not present at the meeting.

**Q1117 Michael Fallon:** But an FSA person was there.

**Tracey McDermott:** An FSA person was there. I think that what was recognised at the time, in 2007 and into 2008, was that it was very difficult to place where LIBOR should be, and that the submitters were having difficulty because there were not transactions there. I do not think that anybody read any more into that comment than it being a general observation that the UK market was not working in the same way that it had done pre-crisis.

**Q1118 Michael Fallon:** Have you not seen these minutes?

**Tracey McDermott:** I am aware of the minutes from the previous Treasury Committee meeting.

**Q1119 Michael Fallon:** The minute is that that the "fixings had been lower than actual traded interbank rates".

**Tracey McDermott:** And I think the issue there is around the fact—as I have said, I was not there, so I have to be slightly careful about what evidence I give about that—that traded rates can mean a number of things. It does not necessarily mean inter-bank transactions. It may also mean other transactions.

**Q1120 Michael Fallon:** Let's take the Department of Justice's statement of facts. It says that in November '07 onwards, employees of Barclays had raised concerns with you, the FSA, and tried to find a solution that would allow Barclays to submit honest rates. Does that not imply that you and they were

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aware that the rates that were being submitted were dishonest?

**Tracey McDermott:** Not that we knew, no. As Adair has already said, Barclays has identified a number of instances where there were communications with the FSA, and those were all looked at carefully as part of the investigation. We have set out the ones where there were the clearest signals to us, which, as Adair has fairly said, we could have reacted to. There were issues around the way the numbers were being submitted.

**Q1121 Michael Fallon:** At what point did it dawn on you that something dishonest was happening in LIBOR fixings?

**Tracey McDermott:** The fact that there was something dishonest going on in relation to LIBOR fixing was brought out as a result of the investigation.

**Q1122 Michael Fallon:** That is not my question. When did it dawn on you that what was going on here was not honest?

**Tracey McDermott:** Are you talking about the FSA in the “you” sense, or me personally?

**Q1123 Michael Fallon:** You were there throughout this period.

**Tracey McDermott:** I was at the FSA throughout this period, but I was not responsible for looking at LIBOR throughout this period. I think that it became clear to us when we conducted the investigation that there were issues. As I said, late 2009 was when it became clear that there were potentially serious issues that needed to be looked at. During the course of the investigation, we made the findings in our notice.

**Q1124 Michael Fallon:** So for two years the FSA did not twig to the fact that what was actually going on here was dishonesty?

**Tracey McDermott:** I am deliberately not using the word “dishonesty”, because—

**Q1125 Michael Fallon:** No, I am, because it is in the Department of Justice’s filing.

**Tracey McDermott:** And I am deliberately not using it because the SFO is investigating LIBOR as a criminal matter, and I do not think that I should express a view on the findings that it may make. We found that there was very serious misconduct, as is set out clearly in our notice. That was something that we determined during the course of the investigation, and the indications of that were from late 2009 onwards.

**Q1126 Michael Fallon:** Knowing what you know now, would you not consider that a minute from November saying that the resultant fixings were lower than actual traded rates would ring an alarm bell with you?

**Tracey McDermott:** I think now it would certainly ring an alarm bell, as would a number of the other communications, but at the time that would not necessarily have been the case.

**Q1127 Michael Fallon:** Right. Lord Turner, you were there from ’07 onwards, I think.

**Lord Turner:** No, 20 September 2008.

**Q1128 Michael Fallon:** Okay. What action were you aware of the FSA undertaking to get to the bottom of this?

**Lord Turner:** I was not aware of the issues to do with the manipulation of LIBOR, or the potential manipulation of LIBOR, till November 2009, and that, as I said earlier, was when Hector Sants for the first time briefed me and said that there was a major case that we could be involved in and that enforcement was engaged with the CFTC. As I said, that was earlier than I would normally have been told about that, because it had not got to the stage where we launch an enforcement case and it goes into our enforcement list—a list which I would naturally see and look at and say to Hector, “Hang on, what’s this one about?” So this was about four months before that and that reflected the fact that there was beginning awareness, first of all, that this might take a large amount of resources, so it was a budget issue for enforcement, but, second, that there were some sensitive issues arising which he felt I ought to talk with Margaret Cole about.

**Q1129 Michael Fallon:** But you see, when we asked Paul Tucker about this, he took from that particular meeting, which he chaired, that the banks, “don’t know what each other are doing” and are therefore “questioning the judgments that the different parties were making, or that they were relying on bilateral private transactions”. You were the regulator. You had the information on what the banks were doing, so why wasn’t the FSA able to spot that something odd was going on?

**Lord Turner:** Well, as I said earlier, Barclays had very usefully identified the 13 instances between September ’07 and October 2008, where they feel that in some way they contacted the regulator—the FSA. The three of those which in the judgment of enforcement and, so far, in my judgment, looking at the file, were the clearest or closest to being clearest in suggesting that something was going on are described in the final notice. They are described in paragraphs 128 to 130, 131 and 172 to 174.

What two of those illustrate is that Barclays were actually sort of saying some elliptical things that implied that some other people might not be playing the game, but behind that they themselves were saying, “We’d better not tell the FSA about it”, and that is set out in the final notice.

However, when I looked at one of them—paragraph 131—somebody said, “We’re being clean in principle, but we’re not being clean clean.” The question is why didn’t somebody put up a red flag? Well, the answer is this occurs as a comment among lots of comments in a large conversation about liquidity conditions in the marketplace. It occurs at a relatively junior level, and at that level somebody does not say, “This is a red flag that I should put up the management chain.” So within the FSA at that time, I can find no evidence that there were concerns noted at a senior management level or, for instance, discussed at the ExCo level. Now, in a perfect world, yes, those would have been spotted. But I return to the fact that there

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was simply a mindset that if there were problems here, it was for the BBA to solve them. Now, maybe that is a part of the way the world then was—the assumptions people then had—but that was the assumption that people were making at that time.

**Q1130 Michael Fallon:** But it wasn't the question I asked you. I didn't ask you what Barclays were telling you, or what was going on in the BBA, I was asking you why you didn't share the conclusion of Paul Tucker that if they were relying on bilateral private transactions, somebody therefore should have been able to see what they were doing. You were the regulator. You were the only person who had all the information.

**Lord Turner:** Clearly, on the question of what was I personally doing, I wasn't personally there.

**Q1131 Michael Fallon:** No, the FSA.

**Lord Turner:** I am trying to—

**Michael Fallon:** The FSA had the information as to what the banks were doing.

**Lord Turner:** Well, it did not have detailed information. There were fragments of information and there was not a response to that that says there is an issue here that we have to deal with. In a perfect world I think there should have been. But there wasn't. That's a fact.

**Q1132 Michael Fallon:** Is it now your contention the FSA did not have enough information to spot what was going on?

**Lord Turner:** No. As I say, the nearest we had to information which should have alerted people, the instance which I've found, which is the most clear one, where I say, "Well, why didn't the people who received this do something with it?" is set out in paragraph 131—was set out two weeks ago in that. It is this phrase, which the person from Barclays also used separately with the BBA, saying they were being "clean in principle" but not "clean clean." There was a sort of indication there, which in a perfect world should have been a flag to send stuff up the system, but this was at a relatively junior level and it was not the focus of the conversation. People were very worried about the substance of liquidity conditions in the marketplace. That was the duty and function that they were focused on, and that is what happened.

**Q1133 Michael Fallon:** I am not asking you what Barclays told you. I am still puzzled as to why somebody relatively senior in the FSA did not have a good hard look, given the evidence from Paul Tucker's group that the actual fixings were way out of line with the traded rates. Why did somebody senior in the FSA not have a good hard look at the information that you had from the banks about their own bilateral transactions? Why didn't that happen?

**Lord Turner:** My understanding is that there was no communication of that, either from the banks themselves or from the Bank of England, at a level of seniority. If you were to ask Hector Sants, I know that he would say that as well—that he was not aware of anything coming in at a high level of seniority, either from the Bank of England, or from the banks

themselves, that made him aware at that time that these problems were occurring. Information came at a relatively junior level. In a perfect world, information that comes in at a junior level goes through a process that comes out—that is the fact of the matter.

**Q1134 Chair:** Okay. Maybe you could check that point and come back to us in writing if you would.

**Lord Turner:** On the—?

**Chair:** The point that you have just explained about what you said Hector would need to confirm.

**Lord Turner:** Sure.

**Q1135 Mr Ruffley:** Lord Turner, you have made much of the fact that the FSA did not have the criminal jurisdiction under FSMA in relation to market manipulation. That is correct, isn't it? It was not a criminal offence under FSMA.

**Lord Turner:** Yes. That is what we pointed out when people said, "Why aren't you charging these people with criminal offences?"

**Q1136 Mr Ruffley:** Absolutely—I just want to confirm that. That is what we are talking about when you say that you have no criminal jurisdiction. Some members of this Committee have had legal advice from senior counsel to the effect that the low-balling could potentially give rise to breaches of the following: the Fraud Act 2006, the Theft Act 1968, common-law conspiracy and perhaps even the Proceeds of Crime Act 2002—violations of all four. It has been further indicated to us that there was absolutely no bar on the FSA bringing prosecutions or beginning criminal investigations under some or all of those four heads. Before Ms McDermott answers, I want you to explain to me whether or not you were aware that those potential criminal courses of action could have been taken forward by the FSA. As the chairman, were you ever given advice that that was the case?

**Lord Turner:** No, I was never given advice that that was the case, and indeed the advice that I have had is that that is not the case. That is why Tracey—the legal department—has to do this. I am not a lawyer and therefore I am dependent on advice from our very expert lawyers. My understanding is that if the offences you have just referred to were to be subject to a criminal case, that criminal case would have to be brought by the Serious Fraud Office rather than by us. That is my understanding of the law, at least as I have been briefed by my lawyers.

**Q1137 Mr Ruffley:** Just before we get Ms McDermott's view on that, there has been some newspaper reporting in the *FT* to the effect that in July last year, when the SFO was deciding whether or not to begin criminal investigations under some or all of the headings I have just listed, they referred the matter of criminal prosecution back to both the OFT and the FSA. Did you have any discussions with, or were you aware of anyone in the FSA having discussions with the then director of the Serious Fraud Office regarding criminal investigation?

**Lord Turner:** I am not aware of the events that you are referring to. I know from being briefed by

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Margaret Cole, and from Tracey subsequently, that we have been in contact with the Serious Fraud Office. My understanding is that they are still looking at the issues. My understanding is that, as always in cases where there is a possibility of fraud, we are open with them about what we are doing. We make it easy for them to see our evidence, and therefore see whether they would bring a criminal case. My understanding is that this is not something that we can give. I certainly know nothing about the Serious Fraud Office coming to us in June last year and saying, "Why don't you do it?" That is not something that I have ever heard before.

**Q1138 Mr Ruffley:** So to sum up your position, it is essentially that you were advised and you accepted, quite reasonably, that there was no criminal offence disclosed by this LIBOR low-balling under FSMA? I think we all agree on that. But that is about as far as you have got.

**Lord Turner:** That was my understanding—

**Q1139 Mr Ruffley:** Hang on. That is as far as you got. No criminal sanctions under FSMA in relation to what these offences might give rise to, and then you moved on. Now, Ms McDermott, just to repeat the question: what do you say to the legal advice that some members of the Committee have received to the effect that there was no bar under the rules on which you have been constituted—the FSA this is—to bring criminal prosecutions outwith FSMA?

**Tracey McDermott:** You made two points. You talked about criminal investigations and you talked about prosecutions—

**Q1140 Mr Ruffley:** Let's just stick with criminal investigations first and then prosecutions.

**Tracey McDermott:** We have extensive investigation powers, which are set out in FSMA. Those investigation powers are limited to the specific offences that are set out in FSMA or to breaches of our own rules and principles. So we cannot, for instance, commence an investigation in order to establish evidence of fraud. We cannot commence an investigation saying that we are looking at an offence under the Fraud Act.

Clearly, if we find evidence during the course of our investigation, in the proper use of our powers, for the reason they are given to us, that indicates a fraud, that evidence is still admissible and we can either pass it on to another prosecutor or, as I mentioned in response to an earlier question, we have at times prosecuted as an ancillary offence. So we prosecuted an insider-dealing offence the year before last where we also prosecuted money laundering alongside. That is done for sensible, efficiency reasons, but when we prosecute the money-laundering offence we are doing it as a private prosecutor, effectively, in the same way as any other corporate. So we don't have a general power given by FSMA to prosecute other offences. We don't have a general power given by FSMA to investigate. We could, as a private prosecutor, choose to prosecute other offences.

**Q1141 Mr Ruffley:** This is an important point. As a private prosecutor—your words—you did indeed have the ability to look at offences that were outwith FSMA 2000 in relation to the events we are talking about, the low-balling?

**Tracey McDermott:** We would have the ability to prosecute those offences if we had discovered evidence that was sufficient for criminal purposes in the context of using our powers for investigation otherwise. But the general protocol that is agreed between us—

**Q1142 Mr Ruffley:** No. It is very useful. We have got that. You are saying that in the course of your investigations in relation to your FSA notice, in relation to the trading on their own book 2005 onwards, and then 2007–09 in relation to the reputational problem they were trying to solve by low-balling, in relation to those two investigations, which you have clearly investigated within the powers that are given to you because they are in the FSA notice—

**Tracey McDermott:** Yes.

**Q1143 Mr Ruffley:** In the course of the evidence you unearthed, which is the result of your notice, you are saying you did not have enough to go on to do a private prosecution.

**Tracey McDermott:** I am saying that what we did in accordance—

**Mr Ruffley:** Hang on—

**Tracey McDermott:** Sorry. Can I just answer the question please? There is a protocol, which is set out in our enforcement manual, as to how we deal with situations where we discover criminality which is wider than FSMA, and the protocol between us and the City of London police, the SFO and other prosecution authorities is that we do not take the lead in prosecuting general fraud offences. That is not our specialist area of expertise. It is not where our fees are raised to prosecute, that is to focus on the FSMA offences. The protocol is that there is a discussion with the relevant authorities, which did take place. I don't recall whether there was a discussion with the director of the SFO in July but there were certainly discussions with the SFO.

**Q1144 Mr Ruffley:** Did you have those discussions?

**Tracey McDermott:** I was not personally involved in discussions with the SFO but one of my heads of department was involved in those discussions.

**Q1145 Mr Ruffley:** When was that?

**Tracey McDermott:** That would have been during the course of 2011. There was a series of discussions.

**Q1146 Mr Ruffley:** What was the conclusion?

**Tracey McDermott:** Initially the SFO were keeping what I think they typically describe as a watching brief as to whether or not they thought that they should take action; so there were meetings with the SFO where we shared information. As I said, the SFO have subsequently decided—under the new director of the SFO—that actually they have commenced an investigation.



**Q1147 Mr Ruffley:** It's a bit late in the day. Can I just ask, finally, Lord Turner—you've both set out the position with admirable clarity, so I'm not being critical here—I just wonder why you didn't take more of an active interest in tracking what the SFO were doing, once you had determined, rightly or wrongly, that the protocol meant that you could not do a private prosecution, that it had to go to the SFO last year.

**Tracey McDermott:** We were in constant liaison with the SFO, and have been throughout, but ultimately the SFO's decisions as to what they do are matters for the SFO; but it's not the question that we had one conversation with them and then that was it. We had a series of conversations and kept them informed of evidence as it developed.

**Mr Ruffley:** Did you—

**Chair:** We have got to move on. Be extremely brief.

**Mr Ruffley:** I will be, if you stop interrupting me.

**Chair:** I'll interrupt you a bit more if you're not careful.

**Q1148 Mr Ruffley:** Did you pursue anything once it had gone to the SFO?

**Lord Turner:** No, I didn't personally.

**Q1149 Mr Ruffley:** Just out of curiosity, as the chairman of the SFO?

**Lord Turner:** No. I am very clear. I don't think it is part of my job as a non-lawyer to turn up in an enforcement department and start trying to teach them their job, to be honest.

**Chair:** That was an admirably brief answer.

**Q1150 Mr McFadden:** I want to follow on from what Mr Ruffley has been asking you, because for the public watching this situation this is an absolutely crucial question. What they don't want to see is the sense that big, wealthy corporations can engage in breaches of the law and get fined what may be to you and me a large sum of money but, in terms of their global turnover, is a small proportion, as we heard earlier. It cannot be that these breaches of the law become a sort of cost of doing business, in terms of the fines that are imposed.

I just want to press you on what Mrs Leadsom and Mr Ruffley were pressing you on. Your position on this is that you've got some gap in your powers. As I say, we've had legal advice that questions that in the first place; but what I really want to concentrate on is not so much that, but whether you were conscious that the public would think that—that they do not want one law for the rich and one law for the vast majority—and how hard did you therefore press the SFO, if you thought there was a gap in your powers, to say, "Look, you can't let these guys away with this; this is market abuse of an outrageous dimension—so outrageous that we as the regulator are going to levy the biggest fine we have ever levied"?

**Tracey McDermott:** I certainly understand that the public don't want to see one law for one set of people and one law for another; and, as I said, one of the things we have done over the past few years is to use the criminal prosecution powers we have in FSMA to prosecute insider dealing and to prosecute section 397 offences. That was a change of strategy we made

about five years ago, which was driven very much by that sort of sentiment; that we had the powers and we should use them.

Here, we didn't believe that we had the powers. We had discussions with the SFO. We remained in constant contact with the SFO. Ultimately it is a matter for the SFO as to the reasons they make the decisions that they do. The new director—the current director of the SFO—has made a decision that they are taking this on for investigation. I welcome that decision, though that's something which is the product of constant communication with SFO throughout the period.

**Q1151 Mr McFadden:** I will bring you in in a second, Lord Turner.

You say you had discussions with them. I just want to understand more the nature of this. Give us a bit more of an insight into the flavour of these discussions. Were you saying, "This is outrageous market abuse. If we had the powers we could put these guys in jail, but we don't. But you do." Was it like that?

**Tracey McDermott:** I don't think it was quite like that. I think what we were actually doing was sharing evidence with them, and we had a meeting which involved the SFO and a number of other authorities who were investigating this, where we shared entirely what our view was of the misconduct as we had found it so far, what our next steps were in the investigation, and how we were taking that forward. So it wasn't us saying, "Oh, you should believe us that there's something dreadful going on here." We were sharing evidence and information with them throughout.

**Lord Turner:** Could I just add two points? First, yes, I think we are well aware of the response of the ordinary citizen, who looks at the cynical greed, as I have called it, particularly in the period '05 to '07—the derivatives shouting over, "Can you fix this for me?"—and are rightly shocked about that. This poses a huge challenge for the industry, which I think has really got to look at itself in the mirror and see how people outside it are seeing it and the degree of change that they want.

What I would say in relation to our enforcement department is—frankly, I am very proud of what they have achieved under the leadership of, first, Margaret Cole and subsequently Tracey—back in 2005/2006 when Margaret originally took over, and until then, the FSA had almost made a positive merit, it supposed, of the statement: "We are not an enforcement-led regulator; we do not bring as many enforcement cases as the SEC or the CFTC." Steadily over the years, we have increased the robustness of our enforcement action: we have increased the size of the fines that we charge; we have put more resources into enforcement, and we have tackled cases of complexity, which we would not have previously tackled, and this is one of the fruits of that.

You may be absolutely right that we should take that further, and we are certainly flagging that, whatever the precise niceties of whether we could have brought this precise private prosecution, but the protocol said otherwise, it would be worth now looking at our powers—and this is one of the things that Martin Wheatley has been asked to do in our review—to

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create an environment where we can, on behalf of society and the ordinary citizen, be still more effective at dealing with these problems.

**Q1152 Chair:** If I may just come in there, Pat? Has the Serious Fraud Office got the message loud and clear that if it is possible to get a charge on these people, the public want that? Have you given them that message?

**Tracey McDermott:** I think, again, I should say, at the risk of sounding like a lawyer again, that the Serious Fraud Office are a prosecuting authority, and they obviously have to approach this impartially and independently and look at the evidence, without thinking about whether or not the public want to see this.

**Q1153 Chair:** But we do not want them looking at reference to their budget, for example. Are they doing that?

**Tracey McDermott:** My understanding is that they have been given assurances by Government that they will have the budget they need to do it.

**Q1154 Mr McFadden:** I just want to take you to a slightly different subject—again, I suspect this might be one for you, Ms McDermott. Looking at the investigation and the references that Lord Turner and Bob Diamond made to all these contacts between Barclays and the authorities, Mr Diamond’s version of events was, if I can paraphrase, “We had all these contacts saying that we thought there was a problem, and by the way, I, as chief executive, didn’t know there was a problem”—so that seems to be paradoxical—“We had all that going on.” Can you tell us, of the contacts with the FSA, at what level within Barclays were they? We have been told that the compliance division in Barclays was told three times from within the bank that there was a problem with Barclays, and that this was not ever kicked up the chain to senior management. There are other people who are sceptical about that, but that is what we have been told. What level were these contacts set out in the table Barclays gave us?

**Tracey McDermott:** One of the contacts was from compliance, and I think that is set out in the notice, but that was one that I think Adair described as having given an impression that other people may have been doing something with LIBOR. I think that was in December 2007. The others were with people—I am not sure exactly what their formal job title was, but they were manager level, not a senior management level, in Barclays.

**Q1155 Mr McFadden:** Just to be clear, compliance were telling you there was a problem with what other banks were doing, but they did not tell you there was a problem with what Barclays were doing, despite the fact that they had been told three times from within Barclays that there was a problem?

**Tracey McDermott:** They would not have been told three times by that time, because the timing in the chain—this was a conversation in December 2007, when I think they had been told only once.

**Lord Turner:** If I may? Several of those 13 instances where Barclays said they talked to us are covered in our final notice, and some of them we have a trail that actually they were not being entirely honest with us at all. For instance, on 5 December 2007—this is in paragraph 126—Manager D, this is within Barclays, says in a conversation with Manager E, “I ‘touched on [the] topic’ of LIBOR, but ‘we didn’t say anything along the lines of, you know, we’re...posting where we think we...I just talked about dislocations’ I ‘kept it...simple, shall we say’”. So, yes, there was a contact there, but the evidence trail shows that they were deliberately not being totally honest with us about what was going on.

**Q1156 Mr McFadden:** So—I do not want to put words in your mouth, so sum this up the way that you want to—it would be not the truth, if I can use that phrase, to suggest that all these contacts were Barclays coming forward as good citizens and telling you of things that were wrong?

**Lord Turner:** That would not be an entire description of what was occurring. In several cases, they were not telling us clearly what we knew behind-hand they were saying to themselves. In other cases, they were telling us, but they were often putting it in terms of other banks. There are one or two—I have clarified in paragraph 131—where, yes, they were saying, with this rather strange phrase, “We’re clean in principle, but we’re not clean-clean.”

**Q1157 Mr McFadden:** Were most of these contacts you going to them, or them initiating it?

**Lord Turner:** Most of them occurred within a daily or close-to-daily liquidity call. There would be a call from the Barclays money market desk. Our liquidity people would be ringing round all the different banks to find out what the conditions were in the marketplace generally. From September 2007 onwards, we are worried about liquidity strains, and we want to get early indications of banks finding it difficult to fund themselves. They are within the context of that sort of data gathering.

**Q1158 Mr McFadden:** That is interesting. If these are basically routine checks made between regulators and banks, what is the meaning of the table, produced for us, that suggests that this illustrates huge Barclays co-operation?

**Lord Turner:** They are almost all in the course. I would need to check whether there were any exceptions to this, but paragraph 128 says, “In a routine liquidity call with the FSA”. Paragraph 131 says, “Manager D made comments in a liquidity call.” These are things which were occurring as part of the normal course of business. They are not things where they said, “I’m picking up the phone for a particular reason. I want to alert you to a problem.” They are not of that character.

**Q1159 Mr McFadden:** So do you think this table that they gave us means much in terms of illustrating their proactive co-operation with the regulators?

**Lord Turner:** I do not think it illustrates a proactive desire to bring to our attention the problems in the marketplace.

**Q1160 Mr McFadden:** That is quite helpful. How believable do you think it is that this could have been going on from 2005 to 2007 in one phase—if you like, the rogue trader issue—and then, at what seems to be a more co-ordinated phase, after articles from Bloomberg, *The Wall Street Journal* and all the rest of it, and that Mr Diamond did not know, Mr del Missier did not know and Mr Agius did not know anything about it?

**Tracey McDermott:** We did investigate this thoroughly. As you would expect, that was one of the questions we looked at, as did the US authorities. Our conclusions are as set out in the final notice. We have not concluded that they were aware.

**Q1161 Mr McFadden:** May I ask one final question that relates to all this and goes back to where we began in this evidence session, about your submission to Barclays about the culture? When the chairman, Mr Agius, came before us last week, he said that an FSA reviewer had told Barclays that their corporate governance was best in class. What is your response to that, given what you told us earlier?

**Andrew Bailey:** There was, preceding this, a review under the programme that the FSA had developed after the onset of the crisis. As it was changing its approach towards more intensive supervision, the FSA introduced something called the core prudential programme, which has modules. One of those modules was governance, and there was a review of Barclays in that context. This review focused on what I might call form of governance. It was particularly focused on the board and the board committees. Did the board have the right committees? Did those have the control documents? Did it have a risk appetite statement? Were those committees populated with the right sorts of people?

Our conclusion was that Barclays did have those things, and that the form of governance did conform. I was not aware of the comment until Marcus Agius said it to you last week—I think it was a sort of corridor comment by the senior supervisor at the time—that they were best in class. I was not aware of that.

The key point I would make is that that looked at the form of governance. The question that I was raising was the substance of it. Whatever the form was, the substance was not working. I therefore disagree with that comment, or at least with the significance given to it. It is certainly important that the form of governance is there, but the substance wasn't working.

**Q1162 Mark Garnier:** On that particular point, Marcus Agius said: "We received a letter from the relevant official at the FSA, saying that they had examined the governance at Barclays and found it satisfactory." This really is not stacking up. Look at, for example, the blindingly obvious corporate governance failure, which was a compliance function. If we look back to period 1, as we have heard before, from 2005 to 2007, there were, I think, 177

documented occasions of this attempted abuse by these traders. That equates to something going on once every two or three days during that period, and that is in addition to all the other stuff. Corporate governance must include a compliance function, yet clearly it was absolutely, massively lacking.

**Andrew Bailey:** Yes, but there is a time difference here. You are right, but those were comments made about Barclays going back into the pre-crisis phase and the early phases of the crisis. This review related to the state of affairs in the form of governance last year, so there is quite a big time gap between those two.

**Q1163 Mark Garnier:** Right in the middle of a big investigation into what was going on at Barclays?

**Andrew Bailey:** Yes, but a whole series of actions had been taken in that respect in the intervening period, so, as I said, the review of the form of governance last year reached those conclusions, but took into account the whole series of changes that had occurred in the meantime.

**Q1164 Mark Garnier:** How does Barclays' governance compare with that of other banks?

**Andrew Bailey:** On the form of it, I think the review was correct to say that, broadly, Barclays' governance, in form, looks to be in order.

**Q1165 Mark Garnier:** Compared with other banks?

**Andrew Bailey:** Yes.

**Q1166 Mark Garnier:** How many other banks are being investigated at the moment for this LIBOR fixing?

**Andrew Bailey:** I have to give that back to Tracey.

**Tracey McDermott:** There are a number of other banks and other institutions that are currently under investigation.

**Q1167 Mark Garnier:** Can you give a specific number? I think I have read in the press that it is 29, but could you confirm that?

**Tracey McDermott:** We are certainly not investigating 29. One of the difficulties with giving precise numbers is that, obviously, we have ongoing investigations, but a number of other authorities have investigations. We have seven institutions that we are looking at.

**Q1168 Mark Garnier:** Seven institutions. Those are British banks that you are looking at?

**Tracey McDermott:** They are not all British banks.

**Q1169 Mark Garnier:** Would you have any idea how many more are being investigated by other institutions?

**Tracey McDermott:** We cannot give you a precise number. We do not necessarily know about all the investigations that are going on. We are aware of some, but not all.

**Q1170 Mark Garnier:** Going back to my point following on from Mr McFadden's question, how does Barclays' governance now compare with that of the other banks that you are supervising?

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**Andrew Bailey:** It is clear from things that were said earlier that the substance of Barclays' governance has a lot to correct. The form may look as is recommended in the book, as it were—it may well do—but the substance clearly has a lot to be done on it. This goes right back to the board session.

**Lord Turner:** Could I illustrate that? You can have an absolutely well designed audit committee and risk committee, which are keeping their minutes, and people are attending and looking at the appropriate issues, but they are signing off on “Yes, let us try”—one of the things that I set out in my letter to Marcus Agius. What you have there is, in formal terms—in terms of the formal processes—a perfectly good governance process. Everything is signed off at the appropriate level. But they are still having a try-on, as the Chairman said earlier, in terms of pushing the limits of regulatory or accounting treatment.

**Q1171 Mark Garnier:** Do you feel that the compliance function should be at main board director level?

**Andrew Bailey:** If you don't mind me banging a drum here for a moment, I think that there needs to be far more emphasis on internal audit and compliance of banks. I said this in an article that I did, in a recent publication for the profession of internal auditors. One of the reasons I feel very strongly about this is that we are trying to focus what we do on the big issues and the big risks. That only works, frankly, if the institutions themselves also have effective compliance and internal auditing and, frankly, I do not think they did.

**Q1172 Mark Garnier:** Can I pick up on that particular point? In response to Mr McFadden's question, we were talking about the meeting of the Money Markets Liaison Group. That was clearly a blindingly obvious occasion when things were going horribly wrong—this was on 15 November 2007. We are talking about corporate governance, yet, as corporate governance, the Sterling Money Markets Liaison Group completely failed to pick up what was a blindingly obvious manipulation of the market, using risk-based assessment, which you discussed.

**Andrew Bailey:** Yes. I think that one of the issues, if you go back over the past years, goes exactly to your point: the failure of risk-based compliance and internal auditing. I find it surprising. I ran the banking operations at the Bank of England for seven years. I got audited on them. We did not do LIBOR, obviously, but I got audited on things that we did.

**Q1173 Mark Garnier:** It creates a worry. You are missing it out, as a regulator, at the Bank of England. You are looking to Barclays and saying that it seems to have very good corporate governance, yet—I appreciate the difference in the periods—it is not picking it up. You have a huge amount of things going on that are blindingly obvious in retrospect and, frankly, blindingly obvious at the time. It leads me to believe that this whole thing of LIBOR manipulation was just not taken seriously until the CFTC started investigating in 2008. Is that an unfair comment, or were you taking it seriously? Or were you just

thinking, “This is an arrangement created in the '70s by the British Bankers Association, back in the days when the Government broker wore a silk cap on the floor of the stock exchange”, and that it was rather arcane and antiquated, and not something that we should worry about?

**Lord Turner:** That is probably the case. I have found no indication that, back in '05, '06 or '07, the FSA perceived that the submission process for LIBOR was a crucial area. I do not think that, on any of our risk maps, which were saying, “Where are the risks in the system?”, that was picked up. As I said earlier, I think that reflects the fact that one of the great challenges in risk assessment is the “frog in the boiling water” process. When things develop slowly, over a number of years, and the conditions that they are dealing with are quite different from those that existed in the first place, people do not spot it. I think that, in retrospect, we look at LIBOR and ask how can you base \$500 trillion in derivatives on the basis of, essentially, a self-regulated industry association system that did not have enough robust controls, which is honestly what occurred.

**Q1174 Mr Mudie:** I find that to be the most alarming thing that you have said tonight—the shrug of the shoulders and the acceptance of, “Oh, it's LIBOR. Who would have thought it?” I have been on this Committee for some years and my view is that, if anything is unregulated and somebody can make money out of it, they will take their full advantage. You were told twice at the Money Markets Liaison Group that fiddling was going on, you had Barclays traders coming to you, and, above all, you had a New York Fed report, but nobody in the FSA said—I know the context and terms of the crisis and so on—or thought, “I think this is something.” How many people did you have employed in the FSA in 2008?

**Lord Turner:** I do not know the figure offhand, but it would be in the region of 3,000 or so.

**Q1175 Mr Mudie:** And nobody thought or said, when they went back to the office after hearing this at the group, “I know we're all busy with the crisis, but somebody had better have a look at that”? It was \$400 trillion to \$500 trillion-worth of business, and a question of the full integrity of the system and the credibility of the City of London, and the FSA and the Bank of England got warning after warning, but neither of you thought, “This is something we'd better look at.”

**Lord Turner:** One of those instances I did not recognise is the Federal Reserve, but I take all the others. The answer is yes, it is concerning.

**Q1176 Mr Mudie:** It is still concerning. You are sitting there, saying, “Who would have thought of looking at LIBOR?”

**Lord Turner:** No, I am not saying that; I am saying that that was the situation at the time. One of the huge challenges that we have in regulating a complex financial system is the process of risk identification. We all spend the time thinking, “Can we spot it?”

**Q1177 Mr Mudie:** No. This was unregulated, and you were warned and warned about it. Let me ask you about the Barclays trading floor. Was it in New York or London that they were shouting, before they submitted a figure, and asking all the traders, “Does this figure cause you problems?” Where was that?

**Tracey McDermott:** Some of them were in New York—

**Mr Mudie:** That was in New York.

**Lord Turner:** Some were in London, and some were in New York.

**Q1178 Mr Mudie:** That was backed up with e-mails, and an e-mail trail that could be physically seen. You are investigating seven other institutions. Are you investigating them in the 2007–08 period, when it was a matter of calming the market, or are you going through all the e-mails to see what crooked trading was going on, as happened in the 2005 to '07 period, and have you found any?

**Tracey McDermott:** Our investigations are ongoing.

**Lord Turner:** The answer is that we are looking at both—aren't we, Tracey? We can say that we are looking at both of those periods.

**Q1179 Mr Mudie:** Have you found any e-mails?

**Tracey McDermott:** Yes, we have found a lot of e-mails.

**Q1180 Mr Mudie:** Some interesting e-mails?

**Lord Turner:** Yes.

**Q1181 Mr Mudie:** Very good. Apart from the shrug of the shoulders that you are doing, what I as an ordinary bloke find so offensive—and people out there will share my feeling—is that you should have known from 2008 that something was happening, and you knew in at least 2009. This is 2012. You are all trolling round the banks, and an ordinary person would ask what you have done about LIBOR. What have you done? As we sit, after three years with this scandal brewing—and you knew it was brewing—what have you done to ensure for the British, American and Japanese public that the LIBOR system is transparent, sound and so on?

**Lord Turner:** Three things: We have been pursuing the enforcement action—

**Q1182 Mr Mudie:** No, no, no. That is part of the organisation.

**Lord Turner:** That is one. There are two others. We have been increasing the supervisory intensity that I referred to, on the way it works at the moment. From June last year—

**Q1183 Mr Mudie:** How long have you been pursuing it? Three years? It has been three years since you knew it was damaged, and you knew it would blow up at some time and damage the City of London. Three years. How long have you been pursuing it? How big a problem is it?

**Lord Turner:** As the size of the problem became obvious in 2010, we took the action I referred to earlier: in early 2011, we wrote to all the banks to get them to attest to us on our compliance and control process. There is another even more important thing: this whole system is not a sound system. The FSA took the initiative in June last year, to say that in addition to taking measures to try to make sure that we are supervising the system, as it is at the moment, more effectively, we must start reviewing the overall system. We must start seeing whether it should be a regulated system.

**Q1184 Mr Mudie:** When did you decide this? It has been running for three years. Why are you still pursuing—

**Lord Turner:** Well—

**Mr Mudie:** Why are you still deciding after three years?

**Lord Turner:** Perhaps you will allow me to get to the end of what I am saying. Last year, Hector Sants took a paper to what is called “Deputies”, which is a combination of Hector Sants, Paul Tucker and Tom Scholar or Jonathan Taylor from the Treasury, proposing that we needed to move towards more effective regulation of the LIBOR market. We were pushing that argument last year.

**Q1185 Mr Mudie:** Lord Turner, I think you should read your statement when you receive the verbatim report. It is all about what your future intentions are. Why has it not been settled? Why have the Bank, you and even the Fed not come in and agreed a system? That is what the ordinary public will want to know.

**Lord Turner:** I think we have been taking the action to fix it. The fundamental long-term problems of LIBOR almost certainly require regulatory support. In the papers we put forward last year, we were arguing for that legislative support.

**Q1186 Mr Mudie:** You took two years to do that—to put forward a paper saying regulatory support was needed. You should have known that in 2009. It was demonstrated in 2009.

**Lord Turner:** No, I do not think we did know in 2009. It was an early stage of the process. We have been pushing this as fast as we can, and I think the FSA has been on the front-burner.

**Q1187 Mr Mudie:** Not fast enough.

**Lord Turner:** Let me say one thing: I completely disagree with the idea that back in 2007–08 I was shrugging my shoulders and saying there was not a problem. I think this is a huge problem.

**Q1188 Mr Mudie:** You did it just now.

**Lord Turner:** You said to me I was shrugging my shoulders about it. That was certainly not my intent, and it was certainly not what I think I was doing. I think this is a huge problem, and I think we should have spotted it earlier. I was simply pointing out that there was a failure in general to see this whole financial crisis coming, across the board.

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**Q1189 Mr Mudie:** We could excuse that, but you knew, and you have wasted three years pursuing, deciding, and discussing. It should have been settled before this scandal blew up, so the rest of the financial world had a bit of confidence—

**Chair:** I think we have had an answer to that question. You have just got to be careful how you move your shoulders, Lord Turner, never mind your eyebrows, which we might come on to in a moment.

**Lord Turner:** I am terribly sorry. I will have training for next time around, Chairman.

**Q1190 John Mann:** Strangely, a number of academics, without 3,000 staff, were able to point to precisely the problem, and some solutions, in 2007 and early 2008. None of your 3,000 staff managed to read those articles, and I find that rather disconcerting. Let me ask you, Lord Turner, why did you withhold, from Parliament and this Committee, letters that were directly relevant to our investigation and, specifically, to the appearance of Mr Diamond, such as your letter to Marcus Agius? Why were they withheld from this Committee?

**Lord Turner:** We were never asked for those letters. There are many letters that you could ask for at any one time, but we—

**Q1191 John Mann:** It is rather difficult for Parliament to ask for letters that it does not know exists. But for the regulator not to provide those letters, and that one in particular, to this Committee is—well, what does it say about the FSA?

**Lord Turner:** I think it shows that we are entirely co-operative with this Committee. Mr Diamond was called—

**Q1192 John Mann:** We spent three hours with Mr Diamond. Those letters were obviously directly relevant, weren't they?

**Lord Turner:** At no stage before that did you contact us and ask whether there was anything relevant to this which we felt we ought to share with the Committee. I am amazed at the suggestion that we are in any sense not co-operating with you. We have been completely co-operative. If you had asked us before Mr Diamond—I think at one stage we were scheduled much earlier in this process—we would have told you everything then.

**Q1193 John Mann:** Well, you didn't, unfortunately. Who is the woman in the lift, who Marcus Agius refers to? Is that you?

**Lord Turner:** No, it is not Tracey.

**Andrew Bailey:** That was the senior supervisor on Barclays.

**Q1194 John Mann:** And who is that?

**Andrew Bailey:** She has left the FSA now.

**Q1195 John Mann:** When was it?

**Andrew Bailey:** It is not clear, from what Marcus Agius said, when that happened.

**Q1196 John Mann:** When did she leave, because that would give an indication?

**Andrew Bailey:** She resigned in the middle of February, around about February 20.

**Chair:** Very shortly after she gave a clean bill of health on the form, at least, of the corporate governance substance.

**Andrew Bailey:** By the way, I should say that when she resigned the reasons for resigning never included anything to do with this.

**Q1197 John Mann:** No, we just wanted to date mark that particular issue. What would be prudent for Barclays to put to one side in terms of a potential contingency arrangement for all the class actions and the cost of fining them in the US? What sort of ballpark figure?

**Lord Turner:** That is not something that we should comment on. If we did, it would be highly market sensitive. It is for Barclays, in their normal disclosure process, to make an assessment of any civil cases and to work out whether they should make disclosures. It would not be appropriate for us to conjecture, and it is the nature of US civil actions that you often have huge-number, relatively low probability events that make it difficult. But it really is for an institution itself, subject to the appropriate rules of the UK listing authority, to make the appropriate judgments as to whether it thinks it should disclose something and what it should disclose.

**Q1198 John Mann:** Do RBS and Lloyds TSB have a comparable sized problem, in terms of LIBOR, to Barclays?

**Lord Turner:** I think it would be appropriate for Tracey to comment on what we can and cannot say publicly about other investigations.

**Tracey McDermott:** As you will probably be aware, the standard FSA policy in relation to investigations is that we do not name individual institutions that are under investigation. The reason for that is that until we have reached a conclusion as to whether there is misconduct, there can be significant harm to them, particularly in a situation where there is a lot of public comment. I think RBS, to be fair, has made it clear that it is being investigated, but those investigations are ongoing and I do not think it is possible to comment on the outcome.

**Chair:** Just to be clear, we are not going to ask you, as a Committee, to alter that policy.

**Tracey McDermott:** Thank you.

**Q1199 John Mann:** On the issue of the Serious Fraud Office, was there a specific meeting or correspondence with Richard Alderman on how they could work with you on this issue?

**Tracey McDermott:** As I said earlier, there was a series of meetings involving SFO staff coming over to meetings with us at our offices, though I am not sure whether there was a specific discussion with Richard Alderman, or whether it was with his relevant head of domain at the time. I can check the exact details of the chronology.

**Q1200 John Mann:** Having worked with the SFO for three years, with the regulator on comparable issues, I am aware of how they work. What staff have

you seconded to the SFO and when, in order to give them expert input to see whether there are issues that they should take forward?

**Tracey McDermott:** We haven't seconded any staff. Until last week, or whenever it was that they announced that they were looking at this, there had not been any requests for staff to be seconded. What we have done, as I said earlier, is share information and evidence with them at meetings, where they were able to discuss with our staff what was happening. There are ongoing discussions on how we can best support them in the current investigation and we have told them that we will make, and indeed have made, available office space and material from our investigation, and give them access to all our staff who have been involved in this.

**Q1201 John Mann:** So would it be accurate to summarise that the SFO was neither putting in nor receiving any detailed expertise until its public announcement this month?

**Tracey McDermott:** No, I am not sure that that was what I said. During the course of last year, there were various meetings where the people sitting around the table were people who were investigating this. So there would have been people from our side giving information and sharing it with the SFO. They would be getting expertise in that sense. They did not have a formal investigation themselves ongoing at the time. I am not sure if I am misunderstanding the question.

**Q1202 John Mann:** No, but the definitions of what a formal investigation is will vary with the SFO. From what you are saying, it sounds to me like there has not been a pre-investigation. What there has been was discussion of the facts and therefore, in essence, they are starting from now, and their time scale, in reality, would be from now.

**Tracey McDermott:** Yes, they start from the position where they are broadly familiar with what has been going on. But yes, they have not been formally investigating or conducting any investigation.

**Q1203 John Mann:** I have a final question. Would it be fair to say that the issue of prosecutions is an issue of choice, whether you are given more powers, or whether the SFO or some other body is to take forward an investigation and potential prosecutions? Is it the case—from what you are told—that, should there be any issues relating to individuals, where there was a desire to prosecute, the law exists to allow that to happen?

**Tracey McDermott:** I'm sorry, I'm not entirely sure that I follow the point. I think the SFO is looking at the question of whether the number of offences that have been listed at various points today may be applicable to the circumstances. The SFO will look at those and look at whether they think there could be a prosecution.

**Q1204 John Mann:** I heard Lord Turner's interview with Andrew Marr. One could have had the impression that the powers were not there. I am just clarifying that—not with yourselves necessarily—the powers are there, should there be a reason to

prosecute, with a range of different laws, should the SFO determine that there is a case to be answered.

**Tracey McDermott:** If the SFO determines that there has been conspiracy to defraud, false accounting or any of those other things, then yes, the SFO has the power to prosecute. Obviously, they are commencing their investigation, and it would not be appropriate to say whether they will find a case to prosecute.

**John Mann:** No.

**Q1205 Chair:** Lord Turner, can I take you back to the decision that the Governor of the Bank of England should speak to Marcus Agius and say that Bob Diamond no longer had the confidence of the regulators? Did he discuss that with you first?

**Lord Turner:** Yes. It might be useful if I gave the whole sequence of events in relation to my own conversation with Marcus Agius, my conversation with Mervyn King and his conversation with Marcus Agius and Mike Rake.

I spoke with Marcus Agius on the afternoon of Friday 29 June. Andrew and I had discussed what the appropriate approach was to the issue of succession. I said to Mr Agius that we were not saying that we had found Bob Diamond to be not fit and proper, and we therefore were not giving a direction that he could not be CEO, but I said to Mr Agius that the board had to think very seriously about the scale of change that Barclays had to make, in a substantive sense but also, as had then developed, regarding the need for them to have a leadership that could convince the external world that they had changed culturally and had addressed these issues. I said, "You have got to think about whether that is possible with Bob Diamond or whether it is simply impossible." Indeed, I remember that Mr Marcus Agius then said, "Whether it's impossible or whether it's just too difficult for him to do it, given the background." That was the conversation I had with Marcus Agius on the Friday afternoon.

Over the weekend, Mr Marcus Agius decided that he should himself resign. I thought that was an honourable decision. It was, however, a decision that surprised me. I thought it more likely, after my conversation with Marcus Agius, that Bob Diamond would resign, and indeed, when I talked to Andrew about it afterwards, that is what I said. In the course of Monday, I had a conversation with Mervyn King in which I briefed him on my conversation with Marcus Agius. I explained what I had said. We both agreed that that was the correct message to be putting forward, and in the evening he had a meeting with Marcus Agius and Mike Rake in which I think he repeated that message.

**Q1206 Chair:** We might have to come back to this, but why didn't you convey this message to Barclays? Why was it left to the Governor?

**Lord Turner:** I had conveyed the message already on Friday evening. I had had a conversation with Mervyn King in which we had agreed that that was the correct message to give. He also had a direct meeting with them, which, as Governor of the Bank of England, he has a right to have.

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**Q1207 Chair:** So this wasn't a case of the Governor raising his eyebrows but of you raising yours.

**Lord Turner:** I think we were at one with the message that we had to give to Barclays.

**Chair:** I think we'll leave it there for the time being, although I am sure that there might be more questions it might be worth asking on that subject. Thank you very much for coming and giving evidence today.