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ORAL EVIDENCE
TAKEN BEFORE THE
PARLIAMENTARY COMMISSION ON BANKING STANDARDS

BANKING STANDARDS

WEDNESDAY 9 JANUARY 2013

ANDREA ORCEL, PHILIP LOFTS and ANDREW WILLIAMS

Evidence heard in Public

Questions 1866 - 2020

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Oral Evidence

Taken before the Joint Committee

on Wednesday 9 January 2013

Members present:

Mr Andrew Tyrie (Chair)
The Lord Bishop of Durham
Mark Garnier
Baroness Kramer
Lord Lawson of Blaby
Mr Andrew Love
Mr Pat McFadden
Lord McFall of Alcluith
John Thurso
Lord Turnbull

Examination of Witnesses

Witnesses: **Andrea Orcel**, Chief Executive Officer of the Investment Bank, UBS, **Philip Lofts**, Group Chief Risk Officer, UBS, and **Andrew Williams**, Global Head of Compliance, UBS, gave evidence.

Q1866 Chair: Good morning. Thank you very much for agreeing to come and give evidence to us this morning at our inquiry into banking standards and culture. This scandal, which, as has been made clear, took place at UBS, was a shocker of enormous proportions, wasn't it, Mr Orcel?

Andrea Orcel: Yes, it was.

Q1867 Chair: Has it particularly shocked you, since you are relatively new to the institution, that it was going on for nearly a decade?

Andrea Orcel: Yes, it did, as it did most of my colleagues.

Q1868 Chair: What have you done about it, to clean up the operation?

Andrea Orcel: My current colleagues had already started a process of tightening our governance and control framework, particularly since 2009. That process has been ongoing, a lot of progress has been made, and more progress needs to be made. We had some very tough lessons learned around LIBOR issues and other issues that we have faced, and we continue to improve our framework. I guess it is a journey, where the whole executive board and the board are very focused on—how can I put it?—recovering the honour and the standing that the organisation had in the past.

Q1869 Chair: This was a problem not of a few rogue traders, but of your management structure, wasn't it?

Andrea Orcel: It was to an extent, yes.

Q1870 Chair: May I ask why you are qualifying that?

Andrea Orcel: Because there are a number of contributing factors to the issue. The management structure that had risk reporting into the business as opposed to separately is clearly an issue. Culture is another issue. Incentives are another issue. I qualify it because a number of different factors contributed to the outcome, all of which compounded the problem.

Q1871 Chair: Are you able to give us any confidence that you have sorted this out?

Andrea Orcel: I would say that I am convinced that we have made a lot of progress. I am also convinced that we still need to do more. But I think that there is a very strong determination in the top management of the company to clean up the act, and to move forward. I would tell you that it is not totally done, but I think we are very far ahead on the road of getting it done.

Q1872 Chair: You have seen what Barclays have done. The crisis that this exposes in the way UBS is run is a multiple of Barclays, isn't it?

Andrea Orcel: It is.

Q1873 Chair: Therefore it needs, probably, even more trenchant management attention, doesn't it?

Andrea Orcel: It does. One of the things that we have done as an institution is that, when we recognised the problem, we attacked it head on. I would not call it an excuse, but I would say that what makes me more comfortable is that the highest level of the organisation was unaware that this was occurring. When they were made aware, the extent of focus on the problem, co-operation and volunteering of information to regulators and all involved was complete.

Q1874 Chair: You mentioned regulators. We may come back to this, but are regulators ever going to be much use for dealing with this sort of problem, or does it have to be banks themselves that sort this out?

Andrea Orcel: That is my conviction. Regulators monitor, and control frameworks monitor and try to catch issues, but the difference is made by the people who are on the front line. They need to change their standards and abide by certain rules, not because they are imposed on them but because they believe in them.

Q1875 Chair: To be clear, you are saying that regulators, generally, are not going to catch much, and it really has to be down to banks to do that.

Andrea Orcel: I think it is down to banks first and foremost. I agree.

Q1876 Chair: I have got that correct?

Andrea Orcel: You have got that correct.

Q1877 The Lord Bishop of Durham: Good morning, Mr Orcel. I think I am right in saying that you have just come from Bank of America.

Andrea Orcel: Correct.

Q1878 The Lord Bishop of Durham: You moved very recently. Bank of America was reported yesterday to have come to a settlement of absolutely colossal proportions with, I think, Fannie Mae and other people involved in the mortgage industry for mis-selling mortgages and the misuse of mortgages. You have come from one bank with massive cultural and ethical issues to another one with massive cultural and ethical issues. Why does that make you the person who can turn it round?

Andrea Orcel: The same thing that could be said today about a number of my colleagues at UBS. That is, I strongly believe that a limited number of people are responsible for the things that have happened to UBS. That is not an excuse; I would say it is a fact. One thing I found when I arrived here is how many people were appalled, upset and angry that their own reputation was dragged down by the acts of others. Again, it is not an excuse, but a fact. Although the facts and incidents are very different, I would not say that everybody at Bank of America is to blame for what happened on mortgage mis-selling. When I go back to my own background, I believe that I have joined a team with the same ambitions and beliefs about integrity and what this business should be about. I feel that I have a high level of integrity and that is how I have run my business across all the years. I have joined a team which is led by Axel Weber, ex-president of the Bundesbank. I would say he has the highest level of integrity and of wanting to reform the industry. I have known Sergio Ermotti for the better part of 20 years and I think he has the same moral standards and obsession with putting integrity first. These are people I recognise myself with, who want to change the organisation, from an integrity and client-focused standpoint and all the things that we are trying to execute as of now.

Q1879 The Lord Bishop of Durham: One of the things that struck us on this Commission is that UBS is here today, a few weeks ago we saw HBOS, and we have seen a number of banks, but we could have seen hundreds. There is scarcely a bank that does not appear to have a unit within it that has behaved badly.

I first dealt with UBS back in 1979—I think that was when I was first involved in work with them. I have known them for a very long time as an exceptional operation and was stunned by what happened. The problem we face is how we find a way in which professional standards can come back into banking. Yesterday, we heard evidence from Sir Peter Rubin, the chairman of the General Medical Council, where obviously professional standards are of the highest importance. One of the things he said was that professional attitude is not about rules and regulations, but about an internal drive to excellence. When we look at what happened at UBS, it seems that that was almost entirely absent, pervasively through the organisation. People must have known that things were not quite right, yet nobody objected. Where is that professional attitude going to come from? How can this be turned from, “Get what I can and devil take the hindmost,” to a real concentration on excellence and client care? I hear what you are saying about it, but this seems to be a pervasive problem.

Andrea Orcel: Unfortunately, I would agree with you that these are industry-wide problems. Again, that is not an excuse for single organisations, but it is an industry that has gone through a long bull market of expansion, unrestricted growth, availability of leverage—a number of the factors that we read about. We all probably got too arrogant, too self-convinced that things were correct the way they were, and the industry needs to change. I think what has happened has—

Q1880 The Lord Bishop of Durham: Forgive me for interrupting, but we all agree with that; the question is how is it going to change. I was reading your ethical code, which was updated last year. I suspect Mr Loft's was heavily involved in that. On page 6 it states, "We apply high ethical standards to all our activities and decisions". What does that mean in practice? Where do you get them from? In a corrupted organisation where there has been significant error and misjudgment, how do you find that basis of ethical decision? Where is the culture going to come from?

Andrea Orcel: In my opinion, what has happened is that, in the case of UBS—which is probably where I can comment more at this point—the firm underwent very rapid growth and entered businesses and markets that it did not know well and that were new for the organisation. Because of the growth rate it did not integrate and amalgamate all the cultures and businesses in the right way. The organisation assumed that businesses will run according to the principles that it had, as opposed to due diligencing, monitoring, intervening and proactively making sure that that was the case.

You were asking how we are changing that. With the restructuring we have announced, it is not only about balance sheet reduction, reduction of risk and so on, which in itself will protect the organisation and will protect the public because we reduce the level of risk that we are taking, so theoretically we will not be as systemically impactful as before. It is also a question of going back. When we say we are going back on the clients, on advice, on best in class execution on certain things, that is also going back to the core of what this organisation was known for—that we understand. Where I think it is a more human organisation—smaller, more focused, more directed and more pointed—it is easier to get your arms around what you want to do. People in the organisation understand what we are all about, as opposed to, when it goes too wide, losing track of a number of businesses that you do not understand.

Q1881 The Lord Bishop of Durham: Essentially, you are saying it was too big to manage safely.

Andrea Orcel: It is not only about size. It is about complexity and different types of businesses that you understand less of.

Q1882 The Lord Bishop of Durham: If I were to put to Mr Loft's or Mr Williams, or both of them, the suggestion that what this Commission should say in its final report is that banks need to be very severely restricted in complexity, either by their own choice, or by regulation if they will not make that choice. Would you agree or disagree with that? Very briefly, yes or no.

Philip Loft's: I would agree. Based on the way we have looked at our own business, we have already embarked on that journey. We have made a decision, which we announced in November 2011, that we wanted to reduce significantly the level of risk that the investment bank was taking, and that we would anchor our business around the wealth management activities of the organisation, the retail and commercial business in Switzerland and the asset management businesses that we have—with the investment bank still being part of that, but in a much more constrained way and also constrained in terms of the balance sheet.

We also announced just last November an acceleration of that to say that we have looked again. We have looked at the environment we are operating in and at the desire to reduce complexity to really get back to what we believe is where we can add value to clients. We think that the best thing we can do is bring the investment bank down again so that its risk-weighted assets will be much lower—down to 70 billion—and we expect over the cycle

that about 20% of our profits would come from investment banking, because we think we need as an organisation to really anchor ourselves around the wealth management and the retail and corporate business. It also brings down the size of the balance sheet, so that by definition brings down an element of risk. Simply, size does represent risk, so you can bring down that element of risk as well.

Q1883 The Lord Bishop of Durham: Mr Williams, from a compliance point of view, do you agree with that?

Andrew Williams: I do. I think it is clear from what we have seen that one of the challenges in compliance is ensuring that I have compliance officers who can face off against the business people in some very complex products. To the extent that we simplify our business and reduce the number of lines of business, that means that I can have higher quality people interfacing with those front office people.

The Lord Bishop of Durham: Thank you. That is a different approach from some we have heard.

Q1884 Lord Lawson of Blaby: Mr Orcel, you said a moment ago that this was wrongdoing by a limited number of individuals. In fact, as the FSA and CTFC inquiries show, it was a very large number of individuals, both traders and managers. How many of them have you sacked as part of your clean-up?

Andrea Orcel: I believe that the number of individuals involved in these incidents was 40—correct me if I am wrong. I think more than half have been let go.

Andrew Williams: I think 18 is the number that we have terminated as a result, directly applicable.

Q1885 Lord Lawson of Blaby: Only 18?

Andrea Orcel: Some of them, I believe, had already left us before the incident came about. When we talk about the total number of people, some were still at UBS, and of those we let 18 go. Some had left UBS, and obviously we could not let those people go.

Q1886 Lord Lawson of Blaby: Mr Hayes is one of the ones who has left, is he?

Andrea Orcel: Correct.

Andrew Williams: Correct. He left us to join another institution.

Q1887 Lord Lawson of Blaby: Which institution?

Andrew Williams: Citi.

Q1888 Lord Lawson of Blaby: He comes out of the investigation as being a crook of the first order.

Andrew Williams: I would not want to comment on that, simply because he has been indicted in the US, so that is a matter that will reach either the courts there or the courts here in due course.

Q1889 Lord Lawson of Blaby: But he is now working for Citibank?

Andrew Williams: No, he is no longer working for Citibank.

Q1890 Lord Lawson of Blaby: I see. The numbers are really very large. One of the things that—

Q1891 Chair: Just to be clear, they have got rid of him, have they?

Andrew Williams: Yes.

Q1892 Chair: I see. But you did not have any qualms about passing him on to someone else?

Andrew Williams: He was hired—headhunted—by them from us.

Q1893 Chair: What kind of reference did you give?

Andrew Williams: I believe we would have just given—He was in Japan at the time, so not within my purview, but I believe he would have just got the standard reference, because I do not believe that we were aware of his misconduct at the time that he was headhunted by them.

Q1894 Chair: We would like to have a look at a standard reference.

Q1895 Lord Lawson of Blaby: There were very large numbers of these wrongdoers, to use the least offensive word I can think of to describe them, and in fact it was the culture of the bank, was it not? There was an account in the FSA about a public chat group of some 58 people, in which one of the traders said, “Who would like me to fix LIBOR for them?” So everybody knew about it, everybody was in on it. If you are cleaning this organisation up, how many people have you got rid of, and how many have you named, so that anybody, any other bank thinking of taking them on, would know that there is something against them? Or do you just discretely let them go, so that they can wreak their crookery somewhere else?

Andrea Orcel: I would probably pass part of that question to Andrew, who can give you more detail. I would make a distinction between probably pre-'09 and post-'09, and the reason why I take that date is not arbitrary. It is when our control functions and compliance and risk functions were totally separated from the front line.

Q1896 Lord Lawson of Blaby: I do not see the relevance of that, because these are still people who should be unacceptable for employment by a reputable bank, whether it was before 2009 or not, and in fact it overwhelmingly was before 2009. What is the relevance of that?

Andrea Orcel: The only relevance of that is because pre that date we were unaware of a lot of the issues that came out afterwards. I think that from the time that we changed our control framework, we investigated these issues and we found out who the guilty parties were, etc. I think—actually I am absolutely clear—that all those people who are guilty will be sacked. When people who left us to go to another place are found to be guilty we obviously inform our counter-parties of what we found. We do not let them go—as you are qualifying—discretely, to “avoid the problem”. We are actually tackling it head on.

Q1897 Lord Lawson of Blaby: You are sacking a considerable number of people, and you are making their names available, so that other banks might be warned that they should think twice before taking them on. And indeed the authorities too need to know. So what is done about this, specifically?

Andrew Williams: May I add something? Since we initially discovered some of the misconduct, which has led to the settlements, in December 2010, we as a management have taken steps to shine a light into every dark corner. If you have studied the settlements, as you have, you will see that the Department of Justice called our co-operation and our investigative efforts extraordinary. The new management has been completely committed to making sure that we root out the problem. Where people have been terminated, there is, for example, within the FSA regime, a requirement as part of the withdrawal of their FSA application that you tick a box that says you do not think this person is fit and proper to work in the securities industry. The FSA regime, in contrast to the regime we see in some other countries, where there is not that level of individual registration and accountability, means that there is a control over people hopping round from one institution to another.

Q1898 Lord Lawson of Blaby: I would like to ask one further question. Before I do—I do not want to take up too much time—it would be helpful, Mr Orcel or Mr Williams, if you could let the Commission have a list with the names of all the people you have dismissed and who are no longer working for UBS, as well as descriptions of whether they are traders, managers or whatever.

The final question I would like to put to you concerns the management. You give the impression that the senior management really did not know this was going on. I find this baffling. If you read again these reports, it was all so open, with e-mail exchanges and public chats. Either the senior management knew what was going on, were in on it, or there was a reasonable presumption that they were, and they turned a blind eye—certainly, the traders and managers who were involved must have assumed that the senior management knew about it, condoned it and were happy with it, because it was a profit centre and good for the bank—or else the senior management were totally incompetent. Which was it?

Andrew Williams: Again, both the FSA notice and the notices from our US regulators expressly recognised that the senior management at the bank were not aware of this conduct. I do not think that means the senior management at the time were incompetent, but it clearly highlights that some of the issues that Andrea alluded to—about the complexity of the business that we were conducting at the time—meant that our management was ineffective, and that is part of the reason why, frankly, we have got out of some of those lines of business.

Q1899 Chair: What steps have you taken to find out what the culture is among the staff you have at the moment?

Andrea Orcel: When I arrived, I spent quite a bit of time with the leadership team and two or three layers below to try to understand the culture of this organisation, which was obviously different from the one I was coming from. To be honest, I was positively impressed with how the people I talked to reacted to all the things UBS had gone through, etc. Everybody refers to one culture, but UBS, like other organisations, did not have one uniform culture, because it went through the last decade expanding, hiring from multiple organisations, buying, etc. There are certainly elements of our cultures that are negative, which we need to root out and which we are in the process of rooting out. There are certain elements of our business that we did not understand as much as we might have. It is very difficult to run that business well and to make sure you are on top of the standard of integrity that you want to have, because you do not understand what people do.

What are we doing now to address all of that? It is a combination of steps. One, you establish a control and risk framework that is able to observe what the issues are and to feed back regularly into management the issues it observes.

Q1900 Chair: What I am trying to get at is what confidence do you have that your staff are not telling senior management what they want to hear?

Andrea Orcel: I actually have a high degree of confidence.

Q1901 Chair: How do you know?

Andrea Orcel: You will never be 100% sure when you deal with human beings, but in an executive committee that meets every week the lion's share of the meeting is on remediation—how we ensure that we do not have any further accidents and how we change people's conduct. We review incidents that we think have occurred and how we are going to deal with them. There is a high degree of elevation and there is an open level of discussion. I do not sense any defensiveness from my colleagues.

Q1902 Chair: How many staff have UBS got in the investment arm globally?

Andrea Orcel: At the front end, post the restructuring, we have about 5,500 people.

Q1903 Chair: And you sacked 18 after a crisis that all but destroyed the reputation of the bank. I am just trying to get a view on how this is likely to be seen by the other 4,982.

Philip Lofts: Under the auspices of the human resources department and under the leadership of the executive board we conduct anonymous surveys to which all our staff are invited to contribute. They go through a whole range of aspects: how they assess the organisation, how they assess the management structure and how they assess the environment they are working in. We have a programme where on a routine basis, we go through and get those surveys, and then digest them, understand and factor that into how we approach matters. We also conduct client base surveys, particularly in the retail and commercial banking business in Switzerland, to get feedback from our clients as to how they see the organisation.

Q1904 Chair: Has everybody been interviewed in this organisation by a team of independent seniors to find out whether they have got the message?

Andrea Orcel: I would not say that everybody has been interviewed, but we have been rolling out a programme on conduct where we are trying to bring down into the organisation the standards that the top management wants the organisation to operate by. It is complicated, because it is one thing for the top management to say what the organisation stands for and what standards we should all apply; it is another thing to make sure that 5,000 people—or, to take the total, 10,000—believe and intimately internalise those standards. It is complicated; that is not an excuse. I think that with training on one side, examples on the other side, and a series of meetings where the executive committee of the investment bank is personally involved with a group of people percolating down the organisation, over time this will sink in.

You correctly raised the 18 dismissals over LIBOR. We believe that all the people who were involved in LIBOR and are still at UBS have been appropriately reprimanded, dismissed or penalised. I cannot tell you whether there are other people who have the same standards as the people we have let go, but I am absolutely determined and convinced that the whole organisation is behind me and we are going to root them out.

Q1905 Lord McFall of Alcluith: Given the answers to Lord Lawson and the Lord Bishop, it seems as if you have new brooms in place and you are confident. However, over the past number of years we have seen that large companies such as Goldman Sachs and yourself have plentiful codes of conduct but problems result even when they are in place. Have you ever thought of establishing a culture and ethics hotline that the staff can phone? It can be independently scrutinised and reported to the board independently, so that the board gets it. All the evidence that we have received so far in terms of culture and ethics leads to the tone at the top. If you want to make yourselves certain, you have an independent process for reporting faults. People can be protected, and therefore you are getting pristine information at the time. Have you thought of establishing that?

Andrea Orcel: We have an independent—we call it protected—whistleblowing hotline. We don't have—I believe that it is a good idea.

Q1906 Lord McFall of Alcluith: Will you take that away, think about it and come back to us?

Andrea Orcel: Yes.

Q1907 Lord Turnbull: You are trying to portray a picture where there is a limited number of people, but what we are looking at is not just the LIBOR case, but the five major fines that you have received from various authorities. There is a wide range of faults at the bank; this is not just the LIBOR case. I presume that you have accepted that.

Andrea Orcel: Yes.

Q1908 Lord Turnbull: I come to the trading floor, almost the sociology of the trading floor. What kind of people are you recruiting on to these floors? Where does this coarseness of language and crudity of attitude come from? Are these graduates, quants and PhDs in maths, or are they young lads who have basically been drawn in, but have not been adequately trained in the decency of public business?

Andrea Orcel: Like all of our competitors, we recruit our people from a number of places. Some are graduates. Some are recruited from competitors. I would separate whether those people are prepared or educated enough to perform the business and the ethical standards that they have. I do not want to make this feel like an excuse for things, but when you get into the ethical standards of human beings, it is rather difficult to spot them, so we need to be better at the way we recruit and to be better in the way that we observe.

We need to be better at making all the people around—our employees—feel that this is their company and that their own reputation is getting dragged down, and that when they see behaviour that does not abide by the standards, they report it so we push out that kind of behaviour from our company as much as possible. When picking them up in recruiting processes etc., we obviously are trying to run as tight as we can, but you do not pick these things up very easily, unfortunately.

Q1909 Lord Turnbull: The problem is not that you are recruiting badly behaving people, but they come in and, instead of learning from their peers and immediate managers good ways of working, they are learning bad ways of working. Does there need to be a major effort on induction and, in a sense, the apprenticeship programme so when you come in, your team leader tells you, “We don't put up with this thing in our bank”?

Andrea Orcel: We have a very tight induction programme for new recruits to go through exactly those things, including training and sessions with top management. I totally agree with that. The issue that we probably had, as I mentioned before, was because the organisation sprawled very quickly in a number of very different businesses its ability to oversee, control and maintain the unified culture that it had at the core had drifted. We feel strongly that now we have brought this back in and therefore we will be much more effective at doing what you are suggesting.

Philip Lofts: One of the other lessons that we take away from the LIBOR incident is that there is available today a lot of sophisticated technology for surveillance—for being able to monitor electronic communications and everything. So we as an organisation have to look at that carefully and decide how we want to use it and whether we can use in a smarter way some of the technology that is able to look through e-mails, chats etc. As you pull those up, it gives you a sense of how people are conducting themselves as well. It is a mix of leadership, of surveillance as well, and making sure that the supervisors who are managing these groups understand the ethical standards that the firm stands for, and that they see that right from the top.

Q1910 Lord Turnbull: I am rather worried about this reference to technology—that seems to be absolutely the opposite of the kind of solution we want. What you need is your team leader telling you that the behaviour he has observed is unacceptable. Trying to do it by monitoring e-mail traffic is missing the point.

Philip Lofts: Apologies, what I meant was that there are some aids to a supervisor, which can sometimes help him to observe what is going on around him.

Q1911 Lord Turnbull: You have a code of conduct and ethics that is commendably short. Does every person who joins the company ever have to sit down for a couple of hours and go through it with someone who, almost paragraph by paragraph, explains why each of the headings is important? Because if you go through it, virtually every point has been flouted in these incidents.

Philip Lofts: It is part of the induction—when somebody joins the firm, they have to go through the code of conduct. When we introduced a revised code of conduct, which I believe was in 2009, under the leadership of Kasper Villiger, who was chairman at the time, we gave it to each member of staff who was with the firm, not just new members, and asked them to review it, sign it and return it, acknowledging that this was a part of things.

Q1912 Lord Turnbull: So it wasn't just handed out in a joiner's pack? Someone needs to have a conversation, saying, "Have you read this? Do you realise how important it is?" Rather than it coming along with lots of other pieces of paper that you have to sign, there must be some major effort going into it.

Philip Lofts: I agree, and that is why, when we reintroduced it back in 2009, we also wanted every existing member of staff to physically sign a copy, because by doing that, we wanted them to realise that we were expecting them to read it, understand it and essentially commit that those were the ethics and standards that they would be following at this firm.

Q1913 Lord Turnbull: May I come to remuneration and incentivisation? Do you report under the UK combined code, where there is an annual report and a remuneration report component within it?

Andrea Orcel: Yes.

Andrew Williams: Yes.

Philip Lofts: Yes.

Q1914 Lord Turnbull: But is it, like a lot of UK companies, the work of the remco and the DRR, where it is almost entirely about a handful of people at the top of the organisation? Does the remco look at how people on the trading floor are remunerated, and whether that serves the wider interests of the company?

Andrea Orcel: We actually have a process and a committee that are run by our control functions—Andrew can give you more detail—which review every incident that we come across, on a regular basis. That has a direct recommendation on the performance grading of the employees across the organisation. If you are involved in an incident that compliance or risk finds is unacceptable in terms of behaviour, that is not only dealt with at the time, but the committee identifies what, in their opinion, should be the consequences for that employee.

Q1915 Lord Turnbull: I am not talking about the bonus that they get, but the structure. For example, what proportion of a typical trader's remuneration is their basic pay, and what is the variable performance-related element?

Andrea Orcel: That is very variable. It could go anywhere from it all being basic pay, which we have had quite a bit in the latest year, to a ratio of 1:2 or 1:3.

Q1916 Lord Turnbull: Have you thought that maybe you have overdone the performance element and related it excessively to financial performance, as opposed to behaviours and conduct?

Andrea Orcel: Personally, I do not think that we as an industry have overdone the performance element. I do think that we have overdone the performance element linked to a certain set of financial matrices, such as revenues or pre-tax, without enough regard for economic profit, risk taking and so on.

Q1917 Lord Turnbull: Are you currently rethinking and rebalancing that?

Andrea Orcel: We have rethought that. We do not have a hard formula but, in the performance review, first of all behaviour and, as I was saying, reports from our control functions have a very substantial impact on the way our people are paid. Secondly, at least at UBS, we no longer look at individuals on the basis of the revenues that they generate or the pre-tax earnings they generate. We will look at lot more at individuals or at businesses in terms of the economic profit or loss they generate, so we fully load for risk.

Q1918 Lord Turnbull: Are you able to factor in the degree to which these profits were earned by taking risk?

Andrea Orcel: Yes, we do. At the moment, when you go business by business, if I look at any business that is under me, they get allocated an attributed equity matrix that is linked to the risk that is being taken, the balance sheet that is being exposed and so on. That capital needs to be remunerated at a certain level so, for that person or that business to be making a positive contribution to UBS, they would need to go over that. In other words, if I use a lot of UBS capital I need to clear that threshold and I need to make more money to clear that. That

money cannot be by taking excessive risk, because the more risk I take the more capital I have to remunerate. There is a framework around that.

Q1919 Lord Turnbull: At senior level, at board level and senior management, it is now pretty standard that a proportion of a performance bonus will be deferred. Does that operate down at the trading-floor level, or are all bonuses paid in cash in the year in question?

Andrea Orcel: That operates across the organisation.

Q1920 Lord Turnbull: Is that new?

Andrea Orcel: It is always difficult to compare, because we do not have all the details, but I would say that UBS is at the forefront in terms of the proportion of compensation that is deferred. I think UBS was among the first to include consistent clawbacks of compensation in case in the later year, even if you have left—

Q1921 Lord Lawson of Blaby: Deferred for how long?

Andrea Orcel: As much as five years.

Q1922 Lord Turnbull: And that would apply to “Trader A”, “Trader B” and so on.

Philip Lofts: For the executive board it is up to a five-year period. For below the executive board it is up to a three-year deferral. It is deferred into the stock of UBS, so the deferred is aligned to the organisation for the long-term strength.

Andrea Orcel: In answer to your question, it goes all the way down, because it is linked to the level of compensation that you have. Over a certain level of compensation all these triggers bite in.

Q1923 Lord Turnbull: Can you confirm that you operate a two-tier board system?

Andrea Orcel: Yes that is correct.

Q1924 Lord Turnbull: How far has a supervisory board gone into the whole question?

Philip Lofts: The supervisory board has a committee called the human resources committee—HRCC. It is chaired by Ann Godbehere, who is one of our leading independent directors. It is staffed entirely by independent directors, so it is made up of people who do not work for the organisation. They determine what the bonus arrangements will be. They determine and they sign off on the compensation plans the firm uses across the whole organisation.

They will sign off and determine the funding rates that will be allowed into the bonus pools for compensation each year. It is not driven and set solely by the executive board. We make recommendations and the CEO of the firm will make a recommendation on what the funding arrangements and the bonus pool should be for each of the businesses. The final decision rests with that supervisory board’s committee. They make that decision.

They are also the authors of the compensation component within the annual report. That comes from them in terms of their articulation as to the principles and the total compensation framework that the firm operates. They also have visibility over—they themselves will recommend to the board the compensation of each of the executive board members. They also see and have a view on the compensation of more highly paid individuals across the whole

organisation. So there is full transparency to that committee in terms of the compensation structure.

Q1925 Lord McFall: Mr Orcel, I am grateful to you for your consideration of that culture and ethics committee, which would have independent scrutiny, reporting to the board and preserving the interests and anonymity of those who put it forward. You mentioned that you have a whistleblowing hotline. How many calls have been recorded on that in the past number of years? What was done as a consequence of people phoning that hotline? Were there disciplinary procedures or were some people sacked? If you do not have that information at the moment, we would like it to be sent to us.

Andrea Orcel: I will most definitely give you the information.

Andrew Williams: I may be able to assist with that, Lord McFall. We get on average about 25 whistleblowings a quarter. Not all of those come to the hotline; some come in via a web portal where people can submit information anonymously and some come in in the course of employment disputes. In the UK in particular, it is reasonably common for employees to claim whistleblowing protection as part of an employment dispute. They cover a wide range of issues. If we have any accounting-related whistleblowing, it is immediately raised to the chair of our board audit committee, but all whistleblowings come to me and I send them all to Sergio Ermotti, the chief executive. We report on them quarterly to the board audit and risk committee.

Q1926 Lord McFall: If you give us information on that for the past number of years, it will be handy.

Andrew Williams: Yes.

Q1927 Mr Love: Can I go back to the issue of the new broom that Lord Lawson talked about earlier? I understand that there are 40 people—I think you confirmed that figure—directly involved in this manipulation, of which 18 have been sacked. I was not clear whether the other 22 have all left the organisation. Can you confirm that all of those 40 now do not work for UBS?

Andrew Williams: There are some whose involvement was not as serious, so disciplinary action was taken against them short of termination, but the vast majority of those people have left the organisation.

Q1928 Mr Love: Let's be absolutely clear about this: those 40, according to the reports, were directly implicated in the manipulation and you are saying that some of them were less implicated than others?

Andrew Williams: Yes.

Q1929 Mr Love: Let me go on with that: 11 managers were among those, including five senior managers. Can you confirm that all of those have either been disciplined or sacked?

Andrew Williams: Yes.

Q1930 Mr Love: According to the open chat forums and group e-mails, a further 70 individuals in UBS were aware of the manipulation going on, although not directly involved

themselves. Has disciplinary action been taken against all of them? Have some of them left the organisation?

Andrew Williams: Disciplinary action has not been taken against all of those people. Perhaps it would be helpful if I explained how those group chat channels work. You may work in the equities division in London, and there will be an open chat channel for equity sales London of which everybody who is involved in equity sales is a member, but they may be a member of 30 other chat channels as well. Simply because somebody puts something on a chat channel that somebody is a member of, it would be excessively harsh to say, “Well, you may have had that open on your screen on the relevant day.” To impute knowledge to those people simply by that being there is a bit like saying, “Something was published in a newspaper that you had delivered”, but to take it that step further is not reasonable. In the interests of candour, I would like to confirm that, no, we have not taken action against all the people who were merely on the chat channel, but where things go further and we have seen direct involvement by e-mails or private chat channels, we have taken action.

Q1931 Mr Love: I am anxious to get a feeling for the new broom that you three have brought to the organisation. This manipulation, unlike or in distinction to Barclays, has been described in the newspapers—I do not think anybody has contradicted this—as industrial in scale. More than 1,000 requests were made. There was widespread knowledge of this. You are telling us that it did not reach to senior management. I find that very difficult. Those outside observers who are being told that new policies are now afoot in UBS need confirmation that this issue has been taken seriously in the organisation. While I understand that not every e-mail—I get hundreds of e-mails every day and I don’t look very carefully at quite a lot of them, but your reputation is on the line in relation to not looking at them. Don’t you think that, if you are going to have a new broom, that new broom really has to be thorough?

Andrew Williams: Absolutely.

Q1932 Mr Love: In the circumstances do you accept that there would be some scepticism about how thorough you are being?

Andrew Williams: I can absolutely understand why there may be such scepticism. All I can say is that it is not just the three of us sitting here who are talking about the new broom. The regulators who fined us \$1.4 billion have recognised the efforts of the new management in areas like training and compliance and have said that our co-operation in the investigation was exceptional.

Q1933 Mr Love: I accept that. Let us turn to Mr Hayes who seems to be dominating proceedings at the moment. In the three years that he was doing yen derivatives he realised nearly \$260 million dollars of profits for UBS. You must have been somewhat sad when he left. How much of that do you think resulted from the manipulations that were going on during that period? Have you made any estimate?

Andrew Williams: It is very difficult. My understanding is that the impact of what Hayes and others did is currently being studied. I don’t think we can directly tell how much Hayes impacted. But clearly his conduct was reprehensible and it is fair to say that we are all disgusted by it.

Q1934 Mr Love: Let me ask you a simpler question because I understand you may not have done the work necessary to answer the first question. How much did he receive, as a result of that \$260 million profit, in his bonus? You must be aware of that.

Andrew Williams: I am not, actually. I am sure—

Q1935 Mr Love: Perhaps you could let us know in a note. Lord Turnbull asked earlier about clawback. You mentioned three years and five years. Has any attempt been made to claw back some of the remuneration that Mr Hayes would have received in recognition of the damage that he has done to the organisation?

Andrew Williams: When Mr Hayes left us to join Citi, under the terms of our compensation schemes, all his deferred compensation was forfeited. So he wouldn't have had anything to claw back. It is usual within the industry that where one joins a competitor organisation, the deferred compensation is forfeited. Sometimes it is replaced, a bit like a transfer fee to use a football analogy. So it is replaced by the new organisation. But Mr Hayes has no compensation from us to claw back.

Q1936 Mr Love: You are talking there about deferred compensation. He would also have received bonuses related to the profit that he generated directly, I would assume.

Andrew Williams: Part of his remuneration would have been—

Q1937 Mr Love: I understand the difficulties that there might be in clawing that back. But no consideration has been given to UBS giving a signal that this sort of activity, when discovered, will be dealt with as robustly as possible?

Andrew Williams: I can't answer definitively as to whether any consideration has been given, but now, obviously, criminal proceedings are afoot. So, hopefully, they will take their course.

Q1938 Chair: Before we leave that point, what you are actually telling us is that he didn't lose anything when he moved to Citi, did he? As is standard practice, as you put it, following the football analogy, he went on a transfer where he forfeited any rights from you but almost certainly collected equivalent compensation from his new employer.

Andrew Williams: I do not know the answer to that definitively, Mr Chairman, but I would suspect that that is the case, absolutely. Obviously, he left Citi, but whether he forfeited at Citi, I would not know.

Q1939 Mr Love: May I just ask two final questions? Clearly, what went on in UBS was an abuse of the LIBOR rules, and that is clearly shown by all the reports. It also contradicted your various codes—this is the updated code. Was and is it made clear to traders that they are expected to abide by that code? Were they all made aware of the fact that there was a code of practice that they were meant to comply with?

Andrew Williams: Yes.

Q1940 Mr Love: Until 2009, you had the curious situation where traders were also submitters. That seems a very obvious conflict of interest that even a man in the street, if I may put it that way, would understand and recognise. Who was it allowed that situation to pertain in UBS, and was that decision taken at the very highest level?

Andrew Williams: I think that was a practice that grew up over many years, and I think that it is a clear failing of our systems and controls, which is why we have paid a very large penalty as a result. The only explanation I can offer—it is not a mitigation; it is merely an explanation—is that I think people assumed, wrongly, as it now turns out, that the way that LIBOR is calculated, by way of that trimmed arithmetic mean, means that the rate was not capable of manipulation. That was the pervasive industry-accepted view, which was clearly wrong, as we have now established. I do not think that UBS was alone in having traders as submitters, because the LIBOR rate is subjective. You are not submitting a rate based on transactions; you are submitting a rate based on perception. Therefore, the people who are the best placed to have a perception are those who are active in those markets.

Mr Love: I do not want to ask a further question, but just to comment that it seemed to be universally known in UBS that a one basis point move in LIBOR was worth \$4 million in terms of profit. I would have thought that that was known by everyone. I would like to ask if you could do us a note telling us the genesis of how it came to be that traders were also submitters, and where that decision was taken within the company. I still find it difficult to believe that senior management at UBS were not aware of these activities.

Q1941 Chair: Can we go back to this \$260 million created by trading by one individual in yen derivatives—the senior yen trader? You must have some idea of what might have been made from manipulation. After all, you have got the track record of all your other senior traders, including your senior yen traders.

Andrea Orcel: I think the answer is no. It is very complicated to establish what impact he has had and what that impact has had on his trading position over a period from—I think it was '06 to '09 that he was with UBS.

Q1942 Chair: If it is justified, this sharp increase from 2007 to 2009, this means that not only was he a crook but he was a brilliant trader.

Philip Lofts: I think, Mr Chairman, that none of the three of us has that information at our fingertips to be able to bring to you. If you would like us to—

Q1943 Chair: I think we would like a view with a number, and I think it is relevant. I am concerned that you are not able to answer it, even indirectly. After all, are you not using outliers in order to try to spot current and future market rigging? Mr Orcel?

Andrea Orcel: I am sorry, Mr Chairman, I was taking a note on the follow-up. Could you repeat the question?

Chair: Aren't you now using outliers as a means of seeking to identify current and future market rigging?

Andrea Orcel: Yes, we are.

Q1944 Chair: In which case, you must be using some elementary technique to give you a rough idea of how much you might infer of this \$260 million was due to manipulation.

Andrea Orcel: If I may, let us come back to you with what we can. At the moment, honestly, we have no answer to that question.

Q1945 Chair: I am surprised and disappointed that you, as a firm, had not thought this through, bearing in mind that you began by saying that you put in place such partial controls. This goes right to the heart of it. If I wanted to know where the mischief was taking place, I

would start by looking at the most elementary numbers suggesting very unusual activity. If that activity is throwing up huge profits, it is either because these guys are brilliant and outliers in their skills, or they could get lucky once or twice. Over a sustained period—this was over a sustained period—it must mean that something else is going on, which you need to look at.

Andrea Orcel: Absolutely.

Q1946 Chair: Either way you need to look at it, because if they found the elixir to get the cash in the market, you want the rest of your troops to do the same, don't you?

Andrea Orcel: Point taken. What I would say is that now the LIBOR setting is part of our treasury, which is not in the business—not in the investment bank—but part of finance as a control function. We are not tracking that as a trading profit, but your point is taken, and we will try to come back to you.

Q1947 John Thurso: Can I ask you about board responsibilities and what is appropriate for the lessons that all boards—but particularly your own—may be taking out of these incidents? I would like to do it on two levels. The first follows on from what the Chairman has been asking you, regarding the management processes around risk. The second has been touched on previously, in regard to culture.

First, can I take you back to an answer you gave the Chairman right at the outset? You said, “when we recognised the problem, we attacked it head on”. What exactly was the problem you recognised?

Andrea Orcel: In general, or referring to LIBOR?

Q1948 John Thurso: That's what I'm asking you. Your actual comment was—both the executive board and the board—“when we recognised the problem, we attacked it head on”. I want to be absolutely certain that I know what problem you were attacking.

Andrea Orcel: In that sentence, I was referring to LIBOR, but the same would apply to our unauthorised trading incident.

Q1949 John Thurso: Could you describe for me the actual problem—at board level, you have said, “This is the problem that we have analysed”?

Andrea Orcel: Given that it is history, Andrew has all the detail.

Andrew Williams: We started off, as a request from the CFTC, looking at dollar LIBOR and whether there had been any attempts to manipulate that. In the course of that, we expanded out our investigation, on our own volition, to look at other LIBOR rates.

Q1950 John Thurso: Can I circumvent your answer? The point I want to get to is not, “Have we got a problem with LIBOR trading?” I am assuming that you worked out that you had a problem. What I am coming to is the problem at board level—the underlying problem that allowed that to happen. Did you make an analysis of that and attack it?

Andrew Williams: We started looking at the manipulation of the yen LIBOR rate. We made applications for leniency to competition commissions. I think that that engendered a much deeper debate at the executive board and group board level about what it was about the organisation that rendered it liable to such an issue. That, I think, kicked off the discussion about the complexity of our business and led to the changes we announced, probably nine

months later. We said, in effect, we are going to get out of much of particularly the proprietary side of investment banking and go back to a much more client-focused model. I think the problems that we had with LIBOR were part of the catalyst for those discussions at board level which led to the strategic changes that we have announced within the organisation.

Q1951 John Thurso: So the broad answer, with regard to your institution, is, “We don’t want this complexity, we will eliminate it, and simplicity will be our safeguard going forward”?

Andrew Williams: Correct.

Philip Lofts: There is the other thing which we have learned over our series of issues. We reconfigured the board back as early as 2008. We established, in ’08, an independent risk committee of the board, and an independent audit committee of the board. Up to that point in time, the members of the risk committee of the board were actually full-time employees of the firm; two vice-chairmen together with the chairman. The change that was made was to bring in the leading independent director, David Sidwell, who was formerly at Morgan Stanley. David is, and has been for nearly five years, the chair of the risk committee, which is a body of five people who are all part of the independent board. I meet with them together with Sergio, the CFO, the general counsel, the head of audit and the chairman of the bank, and we have a risk committee meeting on average every six weeks. That is the independence, and we go through the detail of the risk profile of the organisation.

A lot of the authority in terms of setting the organisation’s risk limits sits at the board level. We recommend what we think the limit should be and they determine whether they agree with our recommendation. The risk capacity framework that we have as a firm is determined by the risk committee; it recommends it to the full board for approval. They work through with management what we believe the appropriate risk capacity framework is, and they have the final determination as to whether they agree with our recommendations or not. They have the final determination as to whether they agree with the amounts of risk that we want to put to play in the organisation. They have also been, obviously, very instrumental in working with management on the strategy as well.

Q1952 John Thurso: That sounds like an extremely good course of action, but it begs two immediate questions. The first is: how confident are you that, had what you have now done been in place then, it would have caught what was happening and prevented it? The second question is: how confident are you that the limits that you set at the top are being adhered to throughout the organisation?

Philip Lofts: On the first one, I would say the confidence we have is because we have changed the way in which the LIBOR submissions take place, so we have removed it from that conflict of interest that was mentioned earlier. On the second one, the way that we establish the limits at the top of the firm is that we have very clear transparency in terms of when we establish a risk limit. We have a number of different categories, whether they are a statistical measure of some of the risks, a stress measure, notional, balance sheet controls, the amount of risk-weighted assets and so on, so it is a catalogue of different individual limits as opposed to just one number that board would set; they would break it down into the key components. We are then very transparent in terms of how we have then sub-allocated each of those limits into the individual businesses, and the responsibility that I have to the external board as well as to the executive board is to be able to assure them, through reporting and our daily monitoring and surveillance, that through the sub-allocation of all those limits, the business is operating in line with or below the limits that we have given.

Q1953 John Thurso: If we go back to the questions that the Chairman and Andy Love were asking around one person who made a significant contribution around profitability, that can be indicative of sheer genius or of somebody fiddling the system—that is the point. How do you ensure, at an early stage, that it is one or the other, and who is responsible for calling time on that now?

Philip Lofts: The way it works today is that, on a daily basis on the trading floors, we look at what the daily p&l is from each of the desks; we look at what the risks are that the desks have taken; we look at what we call a theoretical p&l, which should be produced by the change in those risk profiles during that period of time, and then we look at whether there is outperformance or underperformance. That is led by the independent risk control department, together with the independent financial department. It then works back with the supervisor and the head of those businesses. So it is a daily process just to look at p&l-type activities.

Q1954 John Thurso: Is there now somebody in the organisation who is more incentivised to actually check and report on these things by the threat of a P45 than by the possibility of profit for the organisation? Is there somebody whose life is more dependant upon being cynical and critical than on making a profit?

Philip Lofts: Absolutely, because it is led by the independent risk controls that are there. They report to me globally, so they do not have their compensation influenced by the business. Their compensation, career, promotion and everything is set by me, as in the finance division as well. So we have the senior independent controllers of the firm, who see themselves as accountable both to me and the board, whose desire is to have that independent view and to challenge.

Q1955 John Thurso: To conclude on this, from your experience and the changes that you have made, would it be a fair conclusion that any organisation that does not have that kind of a person with that kind of incentive is unlikely to be able to spot and deal with the risks we are talking about?

Philip Lofts: I would concur. One of the reasons why we brought all the control functions together is exactly that.

Q1956 John Thurso: Can I come to the question of culture? By way of background, I—like all my colleagues—have sat here as a string of institutions have appeared before us and told us how ghastly it all is, what a terrible culture there was, and how there was this terrible area of people behaving badly, but everything has now been put right. To what extent is this a problem of culture, not in individual institutions, but in banking right across the piece?

Andrea Orcel: The cultural problem is right across the piece, in my opinion. It comes from a variety of reasons. Some organisations have been hit more, some less, but the point was made before that it is very difficult to find one that has not been hit in some way. So it has hit to different degrees. Certain organisations have managed better than others, but I believe that the problem is more generalised.

Q1957 John Thurso: The reason I ask the question—and going back to previous questions—is that if we wish the board of an institution to take culture seriously and properly audit the culture and set in motion real steps to change it, clearly we need to know if it is one

or two institutions who have a problem. To what extent does every banker who moves from one place to another say, “Oh, yes, there’s that nice little ethics thing. Read that, forget it and let’s get on in the real world”? One of the things that this Commission must address is the extent to which we recommend individual changes for individual boards and institutions and to what extent we recommend something much bigger: that the whole culture is rotten and therefore has to be dealt with at a regulatory level in a much tougher way than it has been. I would be very grateful for your take on that.

Andrea Orcel: I would not say that the whole culture is rotten if that implies that at every organisation, everyone has a rotten culture in that generalised framework. Do I believe that, due to a long period of loose growth, many organisations—some more, some less and not necessarily in the same areas—had developed areas that had more of this rotten culture that you refer to? Yes, I think that’s the case. So when you go back to the simplicity you were talking about, it is not only simplicity and, by the way, the solution in my opinion is very different institution by institution. We looked at ourselves and we felt that our DNA is a client-driven culture that is based on advice and best in class execution, and that, to be honest, our best DNA was not in the areas that we cut off. Therefore, in bringing it back to the core that we understand is an element of saying, “OK, now we understand that.” Is that enough? That is more simple, so at least we can put our arms around it. Is that enough? No, that is not enough. Then you put the culture, the integrity and the vision with which you have run the business every day. That is, lead by example and give the example every day in the way that you deal with business at management level and then in the layers below on how you intend to win and perform your activities for clients.

I know it is a vague answer to your question, but I do believe the business model is important to make sure that you know what you are doing and that you can execute on the controls and on the culture you want to execute, but then the organisation needs to change as well.

Q1958 John Thurso: What will you do at your board level to ensure there is real culture change? I ask because, in a very small business, having changed the culture, the first 60% took a year, the next 30% took four years, and the last 10% never got done. It is difficult to go all the way, so who is going to be responsible in your board and will actually drive this day in, day out?

Andrea Orcel: At the moment, the board is very much hands on on this, and the executive board is very much hands on. I agree with your comment that everybody is about conduct and culture and changing the industry. That is when you are not flipping a switch. It is a progress and a pass, and, over time, you reduce your probability of having these instances. We talked about the large broom and the industrialisation and so on, but it is all gone. I think we are along the road of correcting it, but I do not think it is all corrected, because it takes time. It is human behaviour in an industry that is particularly prone to these issues, so I think it will take time. But our board and executive board have that as the priority in whatever we are discussing.

Q1959 John Thurso: So that is regularly in your board minutes.

Andrea Orcel: Absolutely.

Q1960 Baroness Kramer: Let me pick up on that issue, Mr Orcel, because Mr Lofts, Mr Williams and—a moment ago—you talked about the change in strategic direction at UBS, and the back to core activities, or, as they would say, back to the knitting, and the

simplification of range and product having the consequence of making it easier to monitor. Then UBS hired you. If I may say—I hope I am not embarrassing you—you are regarded as one of the stars of the world of investment banking. I think you are sometimes called the Ronaldo of investment banking, and your friends describe you as a deal junkie. How is it that your troops are not taking this as the message? In fact, we are back to business as usual, which is obviously the history within the banking world: crisis; we have learned our lesson; back to business as usual.

Andrea Orcel: I think we tend to bundle in the industry of investment banking a number of activities that are very different. If we were looking at them in the industrial world, we would not be bundling. Providing advice to clients on mergers, acquisition, restructuring and a variety of corporate activity is very different from trading LIBOR, which itself is very different from selling equities, which are different from other things. I believe that the reason why UBS hired me—obviously, it is a question for my boss—is because UBS wanted to go back to the core of focusing on their clients. They felt that what they found at the organisation—in the Swiss bank and in the wealth management business—was, at the core, a focus on clients, a focus on relationship and a focus on executing for the clients the right advice or the right transactions. UBS wanted to extend that to our corporate clients and have an investment bank that was centred around clients. I think the press usually uses names that are flamboyant, but at the core I spend my career covering clients and resolving the issues that they ask me to resolve, sometimes better than others. I am, at the core, a client person, and that was consistent with the direction that UBS wanted to turn to for its investment bank.

Q1961 Baroness Kramer: Some of us have been on a sub-panel taking evidence from people—not those at the high level who might be present today, but those who have been working with people in more junior roles, if you like, on the front line. The feedback is very powerful: “There is a control function, and if they say it is okay, that is what resolves the risk. We do not internalise risk. We are here to make money for the institution.” The reward system and the culture have reinforced that. How, from your perspective, do you look at the role of the front line, and what is your engagement to shape that attitude at the front line?

Andrea Orcel: Relying on the control framework and taking the attitude that if a control function has said yes or if screening committee x, y or z has said yes then it is fine, is absolutely wrong. It needs to happen from the front line. As Andrew knows, probably double the calls that he originates towards me, I originate towards him, asking his advice on, “What do you think about that? Can we do this? What are the risks? Can I brainstorm with you on this topic or another? Is there a conflict here? How do we address this issue?”

Q1962 Baroness Kramer: That is quite interesting. How does it come to you—

Andrea Orcel: I was saying that when I have issues that I need to deal with in my current role or with a client—I still cover some clients in my current role—and I have a doubt as to whether something is appropriate or not, most of the time I give Andrew a call and say, “Let’s brainstorm about this. Does that work?” What do I mean by that? I mean that the front line—the right front line, once the culture has evolved—needs to look at the control function as an adviser more than a control function. That does not mean that the control function does not need to control you, but it means that the front line needs to have at heart not making the mistake.

How do you change all that? In my opinion, when you are very focused on clients your reputation, if you want to look at it in a self-serving manner, is what will deliver profitability over time. No clients want to work with people who do not have a high standard of integrity.

You can breach client confidence once—you will not get a second time—but you will always leave a doubt that you will do it a second time.

In my personal view, I always tell people that I would like to have people who all feel, like me, that when you look at yourself in the mirror in the morning you need to like what you see. If you do not like to look at it that way, look at it also egotistically. Clients will not deal with people with low integrity, and they will not like it. Client businesses rely on that check. Trading businesses, when you act as a principal, do not have that further check. You take a position and you rely on yourself. Again, going to simplicity and to this client focus put extra barriers on the behaviour that we need to uphold and that we need to have.

Q1963 Baroness Kramer: I think others are going to pursue some of those lines. May I just ask you one further question? Obviously, the additional feedback that we get very much on the front line—this is not old; this is current flow—is that the attitude within an organisation of much of the front line is, “We are the deal-doers. We are the money makers. We are the best and the brightest.” Compliance, typically, is paid on a very different scale. It is not a client-facing, finance-generating kind of role. How do you deal within your organisation towards that very different status, particularly since you are in an institution where money and status very much go hand in hand?

Andrea Orcel: I think it is a balance. We have gone from empowering the front line, as we want to call it, both to make money and to “auto-check” or “auto-regulate” itself—I am not talking about UBS, but I would say, generally, in the industry—

Q1964 Baroness Kramer: Do you ever reward people for turning down deals?

Andrea Orcel: When we look at conflicts on deals, we do, actually. I have had a variety of situations in my old job—and now in my new job I am going to go through the first compensation exercise—whereby if a person put UBS or the company in the position to win that transaction but then it was turned down for whatever reason, we take that into consideration. I would say that sometimes that is a better behaviour, and more value-creative in the organisation, than accepting the deal.

Q1965 Baroness Kramer: Just to ask again, on the compliance side, how do you deal with status?

Andrea Orcel: Going back to the compliance side, I believe that the crisis has put so much emphasis on committees and controls that it has almost separated the responsibilities between, as you were mentioning, people who make money and people who control the people who make money. That is utterly wrong. Before the crisis, people were expected just to do the right thing and obviously some did not. So you need to find a balance whereby you have those control functions, you have that policing, if you want to call it that, but, at the same time, the front line makes it their problem and is expected to turn down deals if they feel that the conflict is not something that they can manage or that is correct—“manage” is always the wrong word on conflicts: if they feel it is something they cannot take.

How do you change that? I think it is day-to-day behaviour. My concern is that when you have a very strong control function, people have a tendency, if they are on the money-making side of the organisation, to pitch that committee—I use the word “pitch” because if you clear that committee you get a bill of health—as opposed to debating whether it is the right thing to do. At UBS that is the debate that we are having and I think that our control function is very strong. The culture that we want to change to is one where people, regardless

of a committee outcome, are made responsible for the decision that is taken: they actually own the decision.

Q1966 Mark Garnier: Mr Orcel, you said earlier that there are 5,500 people working at the investment banking side of UBS. How many of those comprise a first line of defence?

Andrea Orcel: The 5,500 that remain after our restructuring are the front end of the organisation. There is then a little bit more than that—I would guess some 6,000 or 6,500—who are in the control functions and operations, and everything else.

Q1967 Mark Garnier: So a little under half of the organisation is first line of defence?

Andrea Orcel: If you want to call them that, then yes. I would call them the front line.

Q1968 Mark Garnier: So there are 5,500 who are client-facing and business-facing professional generators of income. Of that, 40 members of staff were involved in this LIBOR problem?

Andrea Orcel: I would say that, given this is post-restructuring, there were about 8,000 before.

Q1969 Mark Garnier: Eight thousand front line? Okay. That is fair enough. So actually, it was a relatively small proportion? That is the point I am trying to get to: how many. None the less, it was 40 members of staff, 11 are managers, and five of those are senior managers. Yes?

Andrea Orcel: A small proportion is not an excuse, but yes, when you look at numbers it is a small proportion. When you look at how you can have 40 people who all do something like that, you just cannot accept it.

Q1970 Mark Garnier: I think we agree. We are staggered, actually, by the level of misdemeanours that have been going on: 2,000 events that have happened that potentially should have flagged up what was going on to the risk functions.

On a slightly different track, you have, for example, oil analysts, oil traders, that kind of staff, and you would expect them to be fully aware of all the information that is going on, wouldn't you, within the oil market, within the balance sheets of the oil companies they may be trading in—within anything that is relevant, to be honest? You would expect them to be absolutely fully aware of everything in order to be good at their function.

Andrea Orcel: We would expect them to be, yes.

Q1971 Mark Garnier: And as a first line of defence, you would also expect your staff to be fully aware of what is going on within the business in order to make sure that that first line of defence was effective. Is that not fair?

Andrea Orcel: Yes.

Q1972 Mark Garnier: Mr Williams, a few minutes ago you let off 35 people who had been looking at this chatroom. You said that it did not matter that they were looking at it and contributing to it. In the same way that somebody taking a newspaper each morning would not necessarily read the sports section and, therefore, would not know whether Wolves had won against Kidderminster Harriers last night, you would let them off for not doing that. Yet

it is perfectly reasonable to expect every member of the front line of defence to keep an eye on what is going on in the business.

Andrew Williams: First, I don't think it was 40 members that we let off who were on that chatroom.

Q1973 Mark Garnier: No, no there were 75.

Andrew Williams: I would not like to get into the exact numbers. The point I was making was that within the electronic communications that people within the firm receive, it would be unreasonable to say, if somebody was merely tangentially potentially aware of something, that that would result in a degree of culpability. I think that is very different.

Q1974 Mark Garnier: Not culpability. We are talking about the first line of defence. That is a different thing. No one is blaming them, but it is the culture of the bank. If, nothing to do with LIBOR, I happened to be looking at this chatroom because I was an oil trader and, therefore, I was interested in interest rates and what is going to happen to the US dollar, which is obviously relevant, and I picked up that somebody was offering to fix LIBOR for anybody, surely the culture of the bank should have meant that everybody who was looking at that would have thought, "Hang on a second." Indeed, one person did. Why did not all 75 people who were looking at that at that time pick it up and report it?

Andrew Williams: That is a good question.

Q1975 Mark Garnier: How can you have made that excuse a few minutes ago, that the fact that they saw it was akin to receiving a Sunday newspaper and not reading a certain section of it?

Andrew Williams: Because we genuinely do not know how many of the people who were on that channel saw the message. The mere fact that it was available to them on their screen—

Q1976 Mark Garnier: Yet, if you have got somebody who is good at their job as an oil trader—I am using an oil trader as an example but it applies to everybody—you would expect them to know all the information that is going on. If you are looking at the first line of defence, surely you must have a culture that expects people to cast almost a fatherly eye across the dealing room to make sure nothing is going wrong, because you are trying to maintain the reputation of everybody in the institution.

Andrew Williams: We do but we also try to identify the things that we think are important, particularly for managers and supervisors, in order to be able to do their jobs effectively. We have what we call our supervisory control portal. That delivers reports and information in a very structured way and allows people to receive that on a daily basis. Rather than being surrounded by the morass of information, part of what the controlled functions such as compliance, risk and finance do, is try to distil that down and say, "Yes, there might be the Wolves analogy out there, but we think you need to see this and, indeed, we want your specific confirmation that you have digested that information and taken the necessary action."

Q1977 Mark Garnier: I think we are talking about slightly different things. I am talking about the fact that there does not seem to be a culture—there certainly wasn't then and I don't get a sense that you have changed it—within the individuals on the dealing room floor that they are looking out for the interest of the bank. That is the point. Your saying that of 75

people only 40 were involved and therefore they didn't pick it up, is surely not a clean sweep of compliance. That is just saying, "Maybe they didn't see it." Surely they should be looking out for it.

Andrew Williams: They should be looking out for it. I think that culture has changed. If I look at the way the business is organised in the UK, for example, we have our SIFs, those who hold the controlled functions from an FSA perspective. They run committees. On those committees sit the controlled functions that are also aligned to those businesses, so we now have a much more structured way of ensuring that there is a forum for people to escalate issues.

Q1978 Mark Garnier: Yes, but that is structural not cultural isn't it?

Andrew Williams: It is both, I think. Part of the culture is providing people with a mechanism whereby they can escalate issues.

Q1979 Mark Garnier: Mr Lofts, there were some wash trades that went through where £170,000 was paid, to a yen market manager I think. What do you understand by a wash trade? Can you describe how it would work?

Philip Lofts: I am not privy to the investigation so I do not know the details.

Q1980 Mark Garnier: You must have read it.

Philip Lofts: I have read the releases—

Q1981 Mark Garnier: What would you understand by a wash trade?

Philip Lofts: I would understand a wash trade as a transaction that has gone from party A to party B, party B back to party C, and maybe back to party A at one stage. Effectively it is going round the system, where there isn't a substantive economic and they were clearly tied at the time they were going round—

Q1982 Mark Garnier: In order to pay money to somebody. Mr Williams, what do understand by a wash trade?

Andrew Williams: In effect, two equal and opposite trades whereby in this case—

Q1983 Mark Garnier: Or, in fact, not quite equal—

Andrew Williams: Yes, indeed—whereby, in effect, some money is left on the table, with the broker in this case.

Q1984 Mark Garnier: And this would be paid as a commission? You would buy and sell the same unit and pay commission on both the buy and the sell side with the same broker.

Andrew Williams: Yes.

Q1985 Mark Garnier: Every transaction is time stamped, isn't it?

Andrew Williams: Well, most of these transactions were over the counter rather than on markets.

Q1986 Mark Garnier: None the less, they are time stamped?

Andrew Williams: You would know when they are done, absolutely.

Q1987 Mark Garnier: So you would see that the trader had done a simultaneous buy and sell trade with another organisation with no economic benefit at all, apart from to pay out, ultimately, a collection of £170,000. It is a blindingly obvious set of trades, isn't it? Yet you missed it on many occasions. Not you, but your organisation. What measures have you put in to pick this up?

Chair: First of all, do you agree that it is blindingly obvious?

Philip Lofts: I do. I agree with the statements that have been made. What we have put in place, and what Andrew Williams was referring to as well, is much more information that we now give to the supervisors on a daily basis. We still see the first line of defence as responsible for understanding what is taking place in their businesses. What is the transactional flow? Does that make sense? Do they understand it? That is also visible to the operations component of the organisation, together with the finance component and the risk component. One of the actions we took towards the end of 2011 was to look very carefully at what we called the role of the chief operating officer of the business. We said that we needed to make sure that we fully empowered one individual who reports to the CEO—coming back to the first line of defence point. That individual has to have responsibility and the ability to look across the whole of the front to back process in the organisation. We need to have within the organisation the ability to sit down and then at a business level go through and look at it.

Q1988 Mark Garnier: Is this by hand? Go through the trades by hand?

Philip Lofts: Go through each of the trading desks and say what is it that has gone through, look at operations—

Q1989 Mark Garnier: How many trades do you do a day?

Philip Lofts: I don't have that.

Q1990 Mark Garnier: A hundred thousand?

Andrew Williams: More. A million and a half in the UK.

Q1991 Mark Garnier: A million and a half trades. How on earth are you going to pick up a wash trade out of that by hand?

Andrew Williams: One of the things we have also done is put some controls around the commission that we pay to brokers. One of the things that this showed up was that you had a relationship between a single individual in Tokyo and a single broker who was, I think, in Auckland in New Zealand, which was too close. One of the ways in which, as a compliance function, we can identify patterns of behaviour that should raise concerns and flags is following the money. If we have a situation where we know what our normal brokerage payments would be in a business and we see something that steps outside that norm, then that can flag an investigation. We use that as part of our risk assessment process.

Q1992 Mark Garnier: But you could have a relationship with a currency market maker who would give you closer spreads on the basis of the fact that you give them more business. That is perfectly legitimate and therefore that would be flagged up erroneously.

Andrew Williams: But we should be able to tell working with the businesses what normalised is and what is then an outlier.

Q1993 Mark Garnier: It does not sound to me as if you have necessarily got this one covered. Presumably there are computer models that you can use to run through to pick up back-to-back, identical trades done at the same time. These stand out like beacons. Yet you are suggesting that you should go through it by hand. Let me ask another question.

Chair: Let's have a reply to that point.

Andrew Williams: First, I don't think they were identical trades done at the same time.

Q1994 Mark Garnier: But that is what a wash trade is.

Andrew Williams: Indeed, and that is how they were characterised in the FSA notices. But I think in circumstances where you have interest rates, which is what was done here, you can have minor variations but the effect is to wash out the risk. It is more difficult potentially to pick up. It is also more difficult to pick up because the transactions are done in an OTC market rather than on exchange, which we will be helped at by some of the moves to move some of the products into central clearing where, as we move to a central counterparty model, it will be much easier to build surveillance.

Q1995 Mark Garnier: For a wash trade to be efficient it has to be very limited risk. That is the whole point of it, because you do not want to put your book at risk. Therefore, it will be a back-to-back trade done at the same time, or maybe agreed at the same time, but you would have two trades on the same day of opposite sides at the same price. They may even have fiddled it such that they could do one in the morning and one in the afternoon and they just agreed to do it at a strange price in the afternoon if it had moved. This stuff is so obvious.

I have another question to do with the recruitment of staff. Mr Orcel, you talked about the fact that you had a number of staff who came from other places, that you had some graduate trainees and all the rest of it. The *Financial Times* stated that "UBS, which was trying to catch up with Wall Street as fast as it could by hiring outsiders". It was basically buying market share by bringing in large teams of people. This is quite an important point. This is to do with culture—training up your own staff to have your own culture and bringing other people in.

There are two sides to this question, one of which is how many people are you bringing in? Of your 5,500 front office staff, how many are brought in as qualified existing businesses? That is, they are generating their own income so you are buying market share. The second part of the question is on Adam Hayes who went on to Citigroup. When did he join UBS and where did he come from? How long was his tenure at UBS?

Andrea Orcel: With respect to how many people we bring in, are you asking the question going forward?

Q1996 Mark Garnier: Going back and going forward. Ultimately, I am interested in the conceptual idea of people who work for an investment bank, or people who work at an investment bank. I used to work at Swiss Bank Corporation in the 1980s and I was part of a team brought in from another company. There were 70 of us and we started up SBCI's equity

side. We very much saw ourselves as our own team working at SBCI, and we had no loyalty to the organisation but we had plenty of loyalty to the team, which is crucial to the culture of these banks.

How many people are you bringing in as graduate trainees who have that culture embedded in them? How many people are coming in from outside and bringing with them a culture from a different bank—a different view of how they should operate, of what the first line of defence should be and of ethics—that is contaminating what you believe should be the right standard going forward?

Andrea Orcel: I don't have the answer to that. I can look into it, but I totally agree with your point. I think this is an industry where either via balance sheet or via inflation of salaries you can increase your market share—not your profits—relatively easily, at least for a period of time. In doing so you don't integrate the people into your culture. To grow this business organically, which is the only way you should be growing it, takes a longer time. People cut corners and they therefore import teams with all the issues that you spoke about. I totally agree with your point, but what I can say is that going forward we will be hiring some people from other competitors, as everybody does, but we have a keen eye on it. We are not going to restructure or improve the organisation over three quarters. It is going to take a period of five years—I have told the management committee that—because we want to hire the right people and integrate them correctly and not have this issue on culture.

On the second part of your question, I have to get back to you. On Hayes—

Andrew Williams: He joined us in June 2006 from Royal Bank of Canada and he left in 2009.

Chair: To pick up one point that has been bounced around quite a bit, Mr Williams, on these 40 individuals, of whom you have dismissed 18, you are saying that the other members of this group of 40 might have done no more than look at a chatline.

Andrew Williams: I do not have the line-by-line specifics. I was saying, Mr Chairman, that there are three categories of people who were involved in LIBOR. There are those we have identified, who clearly had reprehensible behaviour but against whom we, as an organisation, cannot take action because they are no longer with us. Mr Hayes would be a good example of that. We have those we have identified who have had behaviour of such a level that we have terminated their employment—

Q1997 Chair: That is 18.

Andrew Williams: Yes, and there are some others.

Q1998 Chair: Leaving how many, roughly?

Andrew Williams: I think that we have taken disciplinary action against 40 people.

Q1999 Chair: It is the remainder who I am interested in.

Andrew Williams: Twenty-two, I believe.

Q2000 Chair: The reason I am asking this question is that if you look at, for example, what is in both of the final notices, the FSA final notice says clearly that more than 40 individuals were directly involved in rigging markets for personal benefit. I am more or less reading from paragraph 7 of the Principle 5 breach. Why is it that you think these people can remain in your firm? What does “directly involved” mean? Has the FSA taken it to mean reading the equivalent of the sports pages of the newspaper?

Andrew Williams: No, I think that 40 number would include people in both the first and the second category. I am sure they would include Hayes, for example, as one of the 40 people. They would undoubtedly include in that category some of the other people who are former employees of ours. I am saying that we have taken action against 40 people, but we should not confuse the two numbers.

Q2001 Chair: As for the wash trades, it seems extraordinary that no disciplinary action—no dismissal—seems to have taken place of management, bearing in mind that, as we have said, these wash trades stand out like beacons. We are told only a few paragraphs further down that there were standing orders for these wash trades—“*standing order, sir*”, it says at paragraph 8. So it goes on, paragraph after paragraph. I will not read it out. That is what you are telling me, isn't it?

Andrew Williams: No, I do not think it is, sir. The standing order is a reference to a comment that Hayes had with one of the brokers in one of his attempts to manipulate the LIBOR.

Q2002 Chair: This is Hayes.

Andrew Williams: Yes. I believe so, I cannot be sure. But I think that that is a standing order for a request for him to do something to the LIBOR rate, not a standing order for a wash trade. The number of wash trades is very small.

Q2003 Chair: I will take another look at that.

Q2004 Mr McFadden: There is a familiar set of arguments put forward to Committees like this, over issues like this. They involve the following: “It was a limited number of people, and we are horrified by it,” “We have changed everything so it could not happen today,” and “We've got new leadership so we, who are in front of you, were not responsible anyway.” I would like to go through those and explore them a little bit.

Let us start with the limited group of people. This did not only involve traders at UBS. We already know about the Barclays case. The chief executive of RBS has said that he expects his bank to be part of this. There are other banks, too. The FSA notice on this talks of co-operation between the traders at UBS and traders at other panel banks making submissions to the LIBOR process, as part of this whole thing. The truth is that it is not a limited group of people, is it? This is a widespread practice, or was a widespread practice, in the banking industry, was it not, Mr Williams?

Andrew Williams: I think there were instances with us, particularly in relation to yen LIBOR, when there were attempts to collude in the setting of the rate. I think that those attempts, as you say, were with a number of other institutions. I do not think it is the case that—*[Interruption.]*

Chair: Ignore that.

Mr McFadden: You're not saved by the bell, I'm afraid.

Andrew Williams: That's okay, I would like to answer your question. Clearly, I have no knowledge of what went on at those other institutions, but from what I am aware of, they are other large banks, and I would expect that the numbers of people at those banks would be equally as small as at UBS.

Q2005 Mr McFadden: But do you think it is really credible for bank after bank to appear in front of the Treasury Committee or this Commission and say, “This was a small group of people, and we are really horrified,” when, in effect, if you put the story together you see a concerted attempt involving a large number of global financial institutions to manipulate a key interest rate over a period of years? It is not a small, isolated activity; it is a serious corruption of the financial process, is it not, Mr Orcel?

Andrea Orcel: I agree.

Q2006 Mr McFadden: Moving on, the compliance process in banks is supposed to spot things like this. I’ll only read part of it to give you a picture, but the FSA final notice on the compliance process, or lack of it, at UBS, says at paragraph 26: “UBS had no systems, controls or policies governing the procedure for making LIBOR submissions.” There is then the conflict of interest, which Andy Love referred to a little while ago, where the traders were doing the submissions. There was a review in 2008, about which the FSA said, at paragraph 28, “this review was inadequately performed, the new procedures were inadequate in their design and further were inadequately implemented.”

At paragraph 31, it says that the “routine and widespread manipulation of submissions was not detected by Compliance, nor...by Group Internal Audit, which undertook five audits of the relevant business area during the Relevant Period.” As Mark Garnier has just mentioned: “Furthermore, UBS’s systems and controls did not detect any of the ‘wash trades’.” The manipulation of submissions was “routine, widespread and condoned by a number of Managers with direct responsibility for the relevant business area.” How would you describe the state of this so-called compliance function, Mr Williams, given that verdict?

Andrew Williams: It is clear that the compliance that we operated around the LIBOR submissions in the relevant period was wholly inadequate.

Q2007 Mr McFadden: It was completely worthless, wasn’t it?

Andrew Williams: As I said, it was wholly inadequate.

Q2008 Mr McFadden: Why should the Commission have confidence? I do not direct this just to UBS, but to you or any other bank that comes in front of us now: against that background, why should we believe that the supposed changes that you have put in place and outlined today are any better than what went before, or any more convincing?

Andrew Williams: You don’t just have to have confidence in us, you have to look at the LIBOR rate itself. Obviously, when you look at the work that Martin Wheatley has done about how LIBOR itself will be reformed, I think that part of the problem with LIBOR, and one of the reasons why, frankly, the compliance failed, was that it was not a regulated activity. It was conducted by an industry body, and people did not see the rate as being capable of manipulation.

When we put in our submissions to Martin Wheatley’s commission, one of the things we said was that banks should be forced to stand by the LIBOR rates that they submit, so that any bank submitting a LIBOR rate should offer liquidity to other panel members, and could, in effect, be hit on that offer—their money would be where their mouth is when their rates are submitted. Look at both the way the LIBOR rate works and the additional controls that are being put in place. I am sure that every bank has looked at Barclay’s and our settlements with the CFTC, which impose some very stringent conditions on how LIBOR rates are now going

to be submitted. They set the benchmark for conduct going forward, but we also have to look at the rate itself and how that it is reformed.

Q2009 Mr McFadden: Obviously we will consider Mr Wheatley's reforms, but I suppose I am driving at another point, which Susan Kramer slightly referred to. This is the imbalance and the record of failure of compliance against the incentives and the culture operating on the trading floor. I think it would be naive of us to think that a new statement, a code of business conduct and ethics at UBS, would be worth any more than those which existed in the past. If we had had your predecessors here in 2008-09, they would not have sat where you are sitting and told us that they had some real internal problems. They would have told us that they have all these codes of conduct and statements of principles which are really important to the culture in UBS, and so on.

Mr Orcel, you have a long record as an investment banker, and you have been described as a "deal junkie" in the financial press. Why should we as a Commission believe that these codes of conduct are going to be any more relevant today, compared with the animal spirits that drive deal making and trading, and the huge incentives that traders can earn through making these trades?

Andrea Orcel: First of all, we did not say that we have resolved all the issues, and I would like to be clear about that. I think that we know what the issues are, and we have addressed some of these issues, and some are easier to address and some are more difficult to address. My personal opinion is that when you enter the realm of culture and conduct, it is going to take a long time. This means that I would love to tell you that it will not happen again, but I can not tell you that. What I can say to this Commission is only that our executive board and the leadership teams are very serious. Their priority, as Sergio has put it, is integrity over profit, and completely cleaning the organisation back from this. I can tell you that because I live it and breathe it every day. How long will it take? I hope as little time as possible. But it will take some time.

I do not know what more to tell you, beyond the fact that I think my categorisation as a deal junkie is incorrect, because my categorisation should just be as a client person who has been trying to advise clients as much as he can over his career, which is why I have had most of my clients for 15 to 20 years. What I would say from my personal experience is that one of my clients in the past said that the reason he kept on asking for my advice is because I said not to do things more times than to do them. I think that this is the kind of culture we want to establish here.

Q2010 Mr McFadden: In terms of things not to do, you advised RBS on the ABN Amro takeover, didn't you?

Andrea Orcel: I did. I was part of a team, but I cannot say I was not integral to that team.

Q2011 Mr McFadden: Do you regret not advising them not to do that deal?

Andrea Orcel: It is a difficult question given the environment in which we were then and the environment we are in today. I think that with what I know today, we would have advised them not to proceed.

Q2012 Mr McFadden: This was really the deal that brought down the bank, wasn't it?

Andrea Orcel: Much will be written on what brought down the bank. I think there are different opinions on what that was specifically.

Q2013 Mr McFadden: Could I ask a final question about culture? The language in the FSA notice is very similar to that used by UBS traders to Barclays traders, which we saw in the notice last year. What proportion of these traders are male?

Andrea Orcel: Probably most of them, I would say the large majority—

Q2014 Mr McFadden: 90 plus, 80 plus?

Andrea Orcel: I don't have the number, but if I had to take a guess, it is probably 90 plus.

Q2015 Mr McFadden: Do you think a simple measure for banks, and a pretty obvious one, would be to address that question and have a far higher proportion of women doing these jobs? Would that improve the culture?

Andrea Orcel: Absolutely. I think that is a shortcoming of UBS.

Q2016 Lord Lawson of Blaby: You said that one of the most important changes that you have made in the light of this scandal and this disaster is to move away from proprietary trading and focus on client-driven, client-serving work.

Andrea Orcel: Correct.

Q2017 Lord Lawson of Blaby: Just to clarify: first, is this a complete abandonment of proprietary trading or just that you have reduced the amount of proprietary trading? Secondly, is this meant to be a permanent change or is this something that you may think about again at a later date?

Andrea Orcel: I will start with the second one. As far as I am concerned, it is a permanent change, given the philosophy that we want to have in the investment bank.

I shall now touch on the first. The problem with proprietary trading is always how you define it, because in order for an investment bank to play its role and help clients to execute their trades, there is a point in time in most of these transactions when you need to take a risk. Is that risk a proprietary trading risk? It is not. It is, more philosophically, what do we intend in terms of a risk that we take in UBS Investment Bank?

We are going to take risks that are transitory and completely linked to facilitating a transaction to a client. We are not going to take risks that have as an objective to build a position for the bank and for the bank to manage that position over time to extract value from it. If I am executing a sale of the bond for you, I may have to take a position on that bond to execute it correctly, but I am not trying to buy from you a position to extract value from it over an undefined period of time.

It is always difficult to say, "Oh, you're still trading risk." Yes, we are. An example of the difference is that when I look at some of the matrix of risk that the new investment bank will be judged by, VaR, RWAs, balance sheets, capital employed, in all of those matrix—we are among the 10 largest investment banks in the world—we are going to be between one-third and 40% of the size in those matrix of the next smallest competitors. The way we define our business is substantially or completely—use the adjective you want—different from the way our competitors do.

Q2018 Lord Lawson of Blaby: But as you say, you know perfectly well as an experienced investment banker what the motive is for the trade—whether it is to make profit for the bank or to assist in the serving of the client.

Andrea Orcel: Correct.

Q2019 Lord Lawson of Blaby: So you know and you are getting out of that. You said that you were doing this because you are a client-driven person, but is there a wider issue? Do you believe that this cultural problem, which you conceded earlier affects the whole of the banking industry globally, is partly caused by the problem of the conflicting culture of proprietary trading and serving clients? Do you think that it would be for the good of cleaning up the industry as a whole if the example that you have set in getting out of proprietary trading were followed by other investment banks and other large banking groups?

Andrea Orcel: Obviously, if we have done it at UBS, it is because we believe it is the correct model for ourselves and for the industry. That does not mean that everybody needs to adopt our model, but we strongly believe that re-centring the business exclusively around fulfilling the needs of clients is the right thing to do and will reduce the instances where we have issues such as the one we are talking about today.

Q2020 Chair: This is the first of our hearings on UBS. We are very grateful to you for coming in. You can tell, from what you have heard around the table this morning, that there is a degree of scepticism about the extent to which we can rely on the assurances we are currently getting from the industry that these severe problems are now being addressed. We will continue our hearings on this subject tomorrow. Thank you very much for taking the time to see us this morning.

Andrea Orcel: Thank you very much, Mr Chairman.