

# Financial Services Bill

---

MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

---

*[Amendments marked ★ are new or have been altered]*

Amendment  
No.

**Before Clause 1**

LORD STEVENSON OF BALMACARA  
LORD SHARKEY  
LORD EATWELL  
BARONESS BENNETT OF MANOR CASTLE

1

Insert the following new Clause—

**“Duty of care for financial service providers**

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) In section 1C, after subsection (2)(e) insert—
  - “(ea) the general principle that firms should not profit from exploiting a consumer’s vulnerability, behavioural biases or constrained choices;”.
- (3) After section 137C insert—

**“137CA FCA general rules: duty of care**

  - (1) The power of the FCA to make general rules includes power to introduce a duty of care owed by authorised persons to consumers in carrying out regulated activities under this Act.
  - (2) The FCA must make rules in accordance with subsection (1) which come into force no later than 6 April 2022.””

***Member’s explanatory statement***

*This new Clause would strengthen the FCA’s consumer protection objective and introduce requirements for the FCA to make rules for financial services firms that amount to a statutory duty of care.*

**After Clause 5**

BARONESS BOWLES OF BERKHAMSTED  
LORD SIKKA

2 Insert the following new Clause—

**“Periodic independent review of regulators**

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) After section 1S (reviews) insert—

**“1SA Periodic independent review of regulators**

- (1) The Treasury must appoint a group of at least three independent persons to conduct a periodic general review of the effectiveness of—
    - (a) the Financial Conduct Authority,
    - (b) the Prudential Regulation Authority,
    - (c) the Bank of England in respect of its functions under Parts 1 and 5 of the Banking Act 2009 (bank resolution and payment systems) and Part 2 of the Financial Services Act 2012 (recognised clearing houses), and
    - (d) the Payment Systems Regulator.
  - (2) The general review must take place every two to three years and must include a review of—
    - (a) internal operations and controls;
    - (b) systems for responding to whistleblowers, parliamentary correspondence and reports, and public concerns;
    - (c) regulatory perimeters;
    - (d) the effectiveness of rules and the regulatory burden;
    - (e) whether all statutory and public policy objectives have been met;
    - (f) the operation and effectiveness of engagement practices before and during rule making;
    - (g) the skills base of staff;
    - (h) any other matter the independent persons consider relevant;
    - (i) follow up from the previous review and any other intervening review under this Act;
    - (j) any other matter requested by the Treasury or a relevant Committee of the House of Commons or House of Lords.
  - (3) On completion of the review, the persons conducting it must make a written report to the Treasury—
    - (a) setting out the result of the review, and
    - (b) making such recommendations (if any) as the persons consider appropriate.
  - (4) A copy of the report must be—
    - (a) laid before Parliament, and
    - (b) published in such manner as the Treasury considers appropriate.”
- (3) In section 1T (right to obtain documents and information) after “1S” insert “or 1SA”.”

**After Clause 5 - continued**

LORD OATES  
BARONESS ALTMANN  
BARONESS HAYMAN  
BARONESS JONES OF WHITCHURCH

3 Insert the following new Clause—

**“Review of capital adequacy requirements risk weights**

- (1) Within six months of the day on which this Act is passed the Prudential Regulation Authority must complete a review of the risk weighting applied to investments in—
  - (a) existing fossil fuel exploitation and production, and
  - (b) new fossil fuel exploration, exploitation and production.
- (2) In conducting this review, the Prudential Regulation Authority must have regard to—
  - (a) the need to prevent the misallocation of investment to global warming accelerating activities as a result of artificially low risk weights;
  - (b) the full implications of climate change for the risk of investments including physical climate risks, transitional climate risks and climate liability risks;
  - (c) the likelihood of assets becoming wholly or partially stranded before the end of their normal exploitation cycle;
  - (d) the impact of global warming accelerating activities on financial stability, in particular as a result of climate change related disruption of the economy; and
  - (e) the advice of the Climate Change Committee.
- (3) The Treasury must lay before Parliament the outcome of this review within one month of the completion of the review.”

***Member’s explanatory statement***

*The purpose of this amendment is to place a requirement on the PRA to review the adequacy of risk weights applied to fossil fuel exposures in capital requirements having regard to the implications of climate change.*

**After Clause 15**

BARONESS NOAKES

4 Insert the following new Clause—

**“Continuity of contract**

If the FCA exercises one or more of the powers under Article 23D of the Benchmarks Regulation in respect of a benchmark, any reference to or description of that benchmark in a contract, security or instrument must be, with effect from the date of such exercise, interpreted as a reference to or description of the benchmark as modified by the FCA under its powers under Article 23D.”

***Member's explanatory statement***

*This amendment would ensure that if the FCA revised a benchmark under Article 23D (inserted by Clause 15) there would be continuity of contract by replacing references to the earlier benchmark with the revised one.*

5 Insert the following new Clause—

**“Safe harbour for use of benchmarks**

The exercise by the FCA of one or more of its powers under paragraph 2 of Article 23D of the Benchmarks Regulation in respect of a benchmark (“the relevant benchmark”) shall not give rise to any claim or cause of action or liability in damages or otherwise in respect of either—

- (a) the determination or calculation of amounts by reference to the relevant benchmark in respect of any contract, security or instrument; or
- (b) the making of any consequential changes to any contract, security or instrument in respect of the relevant benchmark where such consequential changes are, in the opinion of any party to such contract, security or instrument, reasonably necessary for the use of the relevant benchmark or any determinations made in connection with it.”

***Member's explanatory statement***

*This amendment would ensure that where the FCA imposes changes on a benchmark under the Benchmark Regulation, paragraph 2 of Article 23D, the use of that benchmark for contracts cannot lead to legal actions.*

BARONESS NOAKES  
BARONESS BOWLES OF BERKHAMSTED  
LORD EATWELL

6 Insert the following new Clause—

**“Tough legacy contracts**

- (1) The Treasury may make regulations which will apply if the FCA exercises one or more of the powers under Article 23D of the Benchmarks Regulation in respect of any benchmark (“the relevant benchmark”) to provide for the matters set out in this section.
- (2) The first matter is the interpretation of any reference to the relevant benchmark in any contract, security or instrument.
- (3) The second matter is whether and to what extent any claims, causes of action or liability in damages may arise in respect of the use of the relevant benchmark by any party in respect of a contract, security or instrument.
- (4) Regulations may apply only to contracts, securities or instruments entered into before the FCA exercises its power.
- (5) Regulations made under this section are subject to the negative procedure.”

***Member's explanatory statement***

*This amendment is an alternative to the two other amendments in the name of Baroness Noakes inserting new Clauses after Clause 15. They require the Treasury to make regulations to deal with continuity of contract and safe harbour where the FCA imposes changes on a benchmark under paragraph 2 of Article 23D of the Benchmark Regulation.*

**Clause 22**

THE LORD BISHOP OF ST ALBANS  
LORD SIKKA  
BARONESS BENNETT OF MANOR CASTLE

7★ Page 28, line 23, at end insert –

**“32B Gibraltar-based persons: reporting requirements**

- (1) A Gibraltar-based person carrying on an activity approved under Schedule 2A, or which has permission by virtue of relevant Gibraltar provision to carry on an activity, in the United Kingdom must be registered under section 1046 of the Companies Act 2006.
- (2) A company of the type referred to in subsection (1) is to be regulated in respect of activities that it undertakes in the United Kingdom by a relevant person as defined by the Financial Services and Markets Act 2000.
- (3) A reference to a relevant Gibraltar provision is to be read with section 23 of the Financial Services Act 2021.”

***Member’s explanatory statement***

*This amendment would require any Gibraltar-based person carrying on activities in the UK to file their accounts at Companies House and to be regulated in the UK with regard to their UK activities.*

**Clause 34**

EARL HOWE

8 Page 40, line 14, leave out subsection (2)

***Member’s explanatory statement***

*This amendment and the Minister’s amendments at page 40, lines 16 and 31 make drafting changes in connection with the Minister’s first amendment at page 47, line 34.*

9 Page 40, line 16, at beginning insert “In section 7 of that Act (debt respite scheme: regulations),”

***Member’s explanatory statement***

*See the explanatory statement for the Minister’s amendment at page 40, line 14.*

10 Page 40, line 17, at end insert “so far as it applies in England and Wales”

***Member’s explanatory statement***

*This amendment provides that subsection (4A) of section 7 of the Financial Guidance and Claims Act 2018 is relevant only to the debt respite scheme so far as it applies in England and Wales (see also the Minister’s first amendment at page 47, line 34).*

LORD STEVENSON OF BALMACARA

11 Page 40, line 30, at end insert –

“(4B) The regulations may also include the following as part of the scheme –

**Clause 34 - continued**

- (a) provision to ensure that debt advisers that are responsible for the delivery of debt advice in support of a plan for the repayment of some, or all, of an individual's debts have been properly authorised by the FCA;
- (b) provision to ensure that when an individual is deemed suitable to enter into a plan for the repayment of some or all of their outstanding debts, the organisation holding funds on behalf of the individual and making the agreed repayments to creditors must be a charity or other not-for-profit organisation properly authorised by the FCA;
- (c) provision to ensure that the aggregate provision payable in respect of the costs of operating the repayment plan, other repayment plans, the debt respite scheme and the wider debt advice services being provided meets the reasonable annual costs of the organisations involved;
- (d) provision that the debts that are dealt with under a plan for repayment include those owed to Her Majesty's Government and those owed to other UK public bodies and service providers;
- (e) provision that when an individual has entered into a plan for the repayment of some or all of their outstanding debts, they will receive protection from any warrant or action from bailiffs appointed by a UK court."

***Member's explanatory statement***

*This amendment allows further probing of the Government's plans to establish the Statutory Debt Management Scheme.*

BARONESS BENNETT OF MANOR CASTLE  
THE LORD BISHOP OF ST ALBANS

12★

Page 40, line 30, at end insert –

- “(4B) The regulations may also include the following as part of the scheme –
- (a) a requirement when devising a repayment plan to consider with the involvement of creditors whether it is appropriate to discount part of an individual's debts if the remainder, or part of the remainder, is re-paid in full on a single occasion as specified in the plan (a “full and final settlement”), and
  - (b) funding mechanisms and other arrangements to facilitate providers of repayment plans to pay creditors on behalf of an individual in accordance with a full and final settlement, and to collect out any consequently discounted sums in place of the original debt.”

***Member's explanatory statement***

*This amendment would permit the Government to require, where appropriate, that statutory debt repayment providers attempt to negotiate discounted debt settlements on behalf of debtors. It would also allow the Government to address any ancillary matters to facilitate this.*

EARL HOWE

13

Page 40, line 31, leave out “subsection (5)” and insert “section 7(5) of that Act”

**Member's explanatory statement**

See the explanatory statement for the Minister's amendment at page 40, line 14.

**After Clause 35**

EARL HOWE

14 Insert the following new Clause –

**“Regulated activities and application of Consumer Credit Act 1974**

- (1) This section applies on or at any time after the making of an order under section 22 of the Financial Services and Markets Act 2000, after this section comes into force, which has the effect that a relevant credit activity becomes a regulated activity for the purposes of that Act.
- (2) Section 107(6) of the Financial Services Act 2012 (power to make provision about the application of the Consumer Credit Act 1974) has effect as if –
  - (a) the reference to an order of the kind mentioned in subsection (1) of that section included an order of the kind mentioned in subsection (1) of this section, and
  - (b) the references to a transferred activity included a relevant credit activity which is the subject of an order of the kind mentioned in subsection (1) of this section.
- (3) “Relevant credit activity” means the activity of –
  - (a) entering into an agreement described in article 60F(2) or (3) of the Regulated Activities Order (certain borrower-lender-supplier agreements for fixed-sum credit or running-account credit) as lender, or
  - (b) exercising, or having the right to exercise, the lender’s rights and duties under such an agreement,so far as the activity is not a transferred activity (as defined in section 107(1) of the Financial Services Act 2012).
- (4) “The Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) as it has effect on the passing of this Act.”

**Member's explanatory statement**

Section 107(6) of the Financial Services Act 2012 provides that the Treasury may disapply provisions of the Consumer Credit Act 1974 in relation to an activity previously licensed under the 1974 Act, or exempted under specified provisions of that Act, where the activity has become a regulated activity for the purposes of the Financial Services and Markets Act 2000. This amendment extends that power to certain other activities of lenders.

**After Clause 40**

LORD SHARKEY  
BARONESS SHEEHAN

15 Insert the following new Clause –

**“Access to Sharia-compliant financial services including student finance**

- (1) Within six months of the passing of this Act, the Secretary of State must make provision by regulations to facilitate the availability of Sharia-compliant financial services in the United Kingdom, including availability to students who are eligible for the Government’s student finance provision of Sharia-compliant finance products for paying tuition fees and for student maintenance on equitable terms with students accessing the Government’s student finance provision.
- (2) Regulations under this section are subject to the negative procedure.”

BARONESS MEACHER  
LORD STEVENSON OF BALMACARA  
BARONESS MORGAN OF COTES  
THE LORD BISHOP OF ST ALBANS

16 Insert the following new Clause –

**“Regulation of bailiffs and bailiff firms for the purpose of taking control of goods**

In section 22 of the Financial Services and Markets Act 2000 (regulated activities), after subsection (1B) insert –

- “(1C) An activity is a regulated activity for the purposes of this Act if it is an activity described by Part 3 of the Tribunal, Courts and Enforcement Act 2007 (enforcement by taking control of goods) performed as a service by way of business specified in an order that may include provisions in respect of –
- (a) defining the people, organisations and activities under Part 3 of the Tribunal, Courts and Enforcement Act 2007 which may or may not be regulated under this section;
  - (b) delegating some or all of the functions of the FCA in respect of this regulated activity to another person or body, either existing or established by an order under this section;
  - (c) setting out which parts of this Act may or may not apply in respect of activities regulated by this section;
  - (d) making such supplemental provisions as necessary to carry out the functions of the regulator.
- (1D) If an order under subsection (1C) has not commenced within 2 years of the passing of the Financial Services Act 2021, an activity of the type described in subsection (1C) is to be a regulated activity notwithstanding the lack of an order under subsection (1C).”

**After Clause 40 - continued**

LORD STEVENSON OF BALMACARA  
BARONESS MCINTOSH OF PICKERING

17 Insert the following new Clause—

**“Bills of Sale Act 1878 and Bills of Sale Act (1878) Amendment Act 1882**

- (1) The Bills of Sale Act 1878 and the Bills of Sale Act (1878) Amendment Act 1882 are repealed.
- (2) In consequence of the repeals made by subsection (1), the following are also repealed—
  - (a) the Bills of Sale Act 1890;
  - (b) the Bills of Sale Act 1891;
  - (c) section 23 of the Administration of Justice Act 1925;
  - (d) in Schedule 11 to the Constitutional Reform Act 2005, in paragraph 4(3), the entry relating to the Bills of Sale Act 1878;
  - (e) in Schedule 13 to the Tribunals, Courts and Enforcement Act 2007, paragraphs 17 to 19;
  - (f) in Schedule 9 to the Crime and Courts Act 2013, paragraph 15.”

***Member’s explanatory statement***

*Bills of Sale are mainly used for “log book loans”, one of the last sources of high cost credit. They are governed by two Victorian statutes which the Law Commission recommended in 2017 should be repealed. This amendment is to further probe the Government’s plans to review that recommendation.*

BARONESS BOWLES OF BERKHAMSTED

18 Insert the following new Clause—

**“Undertakings from regulators**

The FCA and the PRA must each give and publish the modes and timing of the provision of information and responses to Parliament concerning their activities and rule-making.”

***Member’s explanatory statement***

*This amendment would require the FCA and PRA to give undertakings about liaising with Parliament.*

19 Insert the following new Clause—

**“Undertakings from regulators (No. 2)**

- (1) The FCA and the PRA must each give and publish an undertaking on the modes and timing of the provision of information and responses to Parliament concerning their activities and rule-making.
- (2) Each undertaking must establish that all consultation documents, rules, draft rules and impact assessments are provided to Parliament no later than publication or the beginning of public consultation procedures.
- (3) Each undertaking must include having due regard to recommendations made by committees or resolutions of Parliament.”

**After Clause 40 - continued**

20 Insert the following new Clause—

**“Undertakings from regulators (No. 3)**

- (1) The FCA and the PRA must each give and publish an undertaking on the modes and timing of the provision of information and responses to Parliament concerning their activities and rule-making.
- (2) Each undertaking must establish—
  - (a) a principle of openness and sincere cooperation in assisting a relevant select committee of either House in the conduct of any inquiry and providing detailed information when writing to, or questioned by, committees;
  - (b) a commitment to provide—
    - (i) policy documents,
    - (ii) consultation documents,
    - (iii) rules,
    - (iv) draft rules, and
    - (v) impact assessments
 no later than publication or when launching any consultation procedure (as applicable), and to have due regard to recommendations made by committees or resolutions of Parliament made in response;
  - (c) a commitment to provide regular updates on—
    - (i) principles, and
    - (ii) kinds of indicators or information
 that they use in developing rules and policies;
  - (d) a commitment to provide, on request, or on their own initiative, documents necessary for the scrutiny of their activities, where necessary with appropriate secrecy provisions;
  - (e) a commitment to arrange for their respective executive committee members, chairs, chief executive officers and panel members, to meet relevant committees, including confidential briefings where necessary.”

LORD SHARKEY

LORD STEVENSON OF BALMACARA

21 Insert the following new Clause—

**“Interest rates for mortgage prisoners**

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) After section 137FD insert—

**“137FE FCA general rules: interest rate for mortgage prisoners**

- (1) The FCA must make general rules requiring authorised persons involved in regulated mortgage lending and regulated mortgage administration to introduce a cap on the Standard Variable Rates charged to mortgage prisoners and to ensure that mortgage prisoners can access new fixed interest rate deals at an interest rate equal to or lower than an interest rate specified by the FCA.
- (2) In subsection (1)—

**After Clause 40 - continued**

“mortgage prisoner” means a consumer who cannot switch to a different lender because of their characteristics and has a regulated mortgage contract with one of the following type of firms –

- (a) inactive lenders, or firms authorised for mortgage lending that are no longer lending; and
- (b) unregulated entities, or firms not authorised for mortgage lending and which contract with a regulated firm to undertake the regulated activity of mortgage administration;

“new fixed interest rate deals” means the ability for the consumer to fix the rate of interest payable on a regulated mortgage contract for periods of 2 years and 5 years;

“Standard Variable Rate” means the reversion rate which is a variable rate of interest charged under the regulated mortgage contract after the end of any initial introductory deal.

- (3) The general rules made under subsection (1) must set the level of the cap on the Standard Variable Rate at a level no more than 2 percentage points above the Bank of England base rate.
- (4) The general rules made under subsection (1) should make new fixed interest rate deals available to mortgage prisoners who meet the following criteria –
  - (a) are up to date with payments or have aggregate arrears of no more than one monthly payment in the past 12 months,
  - (b) have a remaining term of 2 years or more,
  - (c) have an outstanding loan amount of at least £10,000, and
  - (d) have not received consent to let the property.
- (5) When specifying the interest rates for new fixed interest rate deals required by subsection (1) the FCA should specify rates for a range of Loan-To-Valuation (LTV) ratios taking into account the average 2-year and 5-year fixed rates available to existing customers of active lenders through product transfers.
- (6) The FCA must ensure any rules that it is required to make as a result of subsection (1) are made not later than 31 July 2021.””

***Member’s explanatory statement***

*This new Clause would require the FCA to introduce a cap on the Standard Variable Rates charged to mortgage prisoners and, under specified circumstances, ensure their access to fixed rate interest deals.*

BARONESS HAYMAN  
LORD OATES  
BARONESS JONES OF WHITCHURCH  
BARONESS BENNETT OF MANOR CASTLE

22

Insert the following new Clause –

**“Reporting on climate related financial risks and contribution of financial services to climate change targets**

**After Clause 40 - continued**

- (1) The FCA and PRA must within 12 months of the day on which this Act is passed, and every 12 months thereafter, lay before Parliament a report setting out—
  - (a) how they have evaluated the UK financial system’s and regulated businesses’ exposure to climate related financial risks, and
  - (b) the impacts of such risks on the stability of the UK financial system.
- (2) In preparing the report in subsection (1) the PRA and FCA must—
  - (a) request advice from the Climate Change Committee, and
  - (b) publish the request, together with any associated terms of reference, guidance and advice received.
- (3) The Treasury must—
  - (a) within 12 months of the day on which this Act is passed set out a timetable to consult on a review of the objectives of the FCA and PRA and how such objectives will have regard to the United Kingdom’s net zero target as contained in section 1 of the Climate Change Act 2008; and
  - (b) within 12 months of the day on which this Act is passed, and every 12 months thereafter, set out details of all government guidance relating to climate considerations which has been provided to the FCA and PRA through remit letters or other correspondence.
- (4) The Treasury, FCA and PRA must, in relation to any future consultations relating to financial services operating within the United Kingdom, publish details setting out—
  - (a) the extent to which commitments to net zero and biodiversity have been taken into consideration; and
  - (b) how the proposed changes set out in such consultations would contribute to the achievement of the United Kingdom’s net zero target as contained in section 1 of the Climate Change Act 2008.”

***Member’s explanatory statement***

*This amendment is to provide for the establishment of a regular reporting framework for systemic climate related financial risks. It also aims to ensure that appropriate consideration is given to climate considerations in future consultations and policy development.*

BARONESS HAYMAN  
 BARONESS ALTMANN  
 LORD OATES

BARONESS BENNETT OF MANOR CASTLE

23

Insert the following new Clause—

**“Appointment of an FCA senior manager with responsibility for climate change**

In Schedule 1ZA to the Financial Services and Markets Act 2000 (The Financial Conduct Authority), after paragraph (8) insert—

- “(9) The FCA must appoint a senior manager with responsibility for climate change.””

**Member's explanatory statement**

*This amendment adds a new provision which provides for the appointment of a senior manager within the FCA with responsibility for climate change.*

BARONESS NEVILLE-ROLFE

24 Insert the following new Clause—

**“Requirement to report to Parliament on impact on businesses**

The Secretary of State must publish an annual report on the impact of measures taken by the FCA, PRA and the Government to regulate financial services, particularly on small business, innovation and competitiveness.”

LORD SHARKEY

*As an amendment to Amendment 24*

25★ After “business,” insert “consumer protection,”

LORD LEIGH OF HURLEY

BARONESS ALTMANN

26 Insert the following new Clause—

**“Financial Ombudsman Service rules to include potential customers**

- (1) Section 226 of the Financial Services and Markets Act 2000 (compulsory jurisdiction) is amended as follows.
- (2) After subsection (7) insert—
  - “(7ZA) The rules must provide that—
    - (a) potential customers of financial services, in addition to actual customers, are eligible to make a complaint, and
    - (b) any complaints by potential customers are dealt with under the scheme.””

THE LORD BISHOP OF ST ALBANS  
BARONESS BENNETT OF MANOR CASTLE  
LORD SIKKA

27 Insert the following new Clause—

**“Requirement for the provision of gambling blockers**

In regulation 71 of the Payment Services Regulations 2017 (S.I. 2017/752), after paragraph (2) insert—

- “(2A) A framework contract must provide for the payment services user to have the right to stop the use of a payment instrument for specific purposes relating to transactions sent to gambling firms, as identified by card schemes merchant category codes.””

**Member's explanatory statement**

*This amendment requires payment service providers to offer an opt-in option for consumers to block, or access pre-agreed spending limits for, gambling transactions.*

BARONESS NEVILLE-ROLFE  
BARONESS MCINTOSH OF PICKERING

28 Insert the following new Clause –

**“Digital identification in the UK financial system**

- (1) The Secretary of State may by regulations establish a scheme for the use of a distributed digital identification for individuals and corporate entities operating in the UK financial system.
- (2) Regulations under this section are subject to the affirmative procedure.
- (3) In this section, “the UK financial system” has the same meaning as in the Financial Services and Markets Act 2000 (see section 1I of that Act).”

BARONESS NEVILLE-ROLFE

29 Insert the following new Clause –

**“Digital identification in the UK financial system: review**

- (1) The Secretary of State must make a statement to Parliament, before 1 September 2021, about establishing a scheme for the use of a distributed digital identification for individuals and corporate entities operating in the UK financial system.
- (2) In this section, “the UK financial system” has the same meaning as in the Financial Services and Markets Act 2000 (see section 1I of that Act).”

LORD HOLMES OF RICHMOND

30★ Insert the following new Clause –

**“Digital identification**

- (1) Within six months of the passing of this Act, the Secretary of State must publish the Government’s plans for the development and deployment of a distributed digital identification (“Digital ID”) for individuals and corporate entities in the financial sector.
- (2) The Digital IDs should be –
  - (a) scalable,
  - (b) flexible, and
  - (c) inclusive.
- (3) The Secretary of State must also undertake a public engagement campaign around Digital IDs to raise awareness and participation in the process.
- (4) In this section –
 

“Digital ID” means a set of attributes related to an entity, as according to the International Organization for Standardization and International Electrotechnical Commission framework 24760-1;

“flexible” means capable of resilience and workable as technologies develop and evolve;

“inclusive” means capable of including all entities and individuals, not least, in respect of their protected characteristics as set out in the Equality Act 2010;

“scalable” means capable of national deployment.”

*After Clause 40 - continued*

31★ Insert the following new Clause –

**“Mandatory regime for open finance**

- (1) The Secretary of State must, within 3 months of the date of the passing of this Act, lay before both Houses of Parliament draft regulations requiring that providers of financial services data must make that data available to appropriately licensed third parties on a non-discriminatory basis.
- (2) Regulations under subsection (1) are subject to the affirmative procedure.”

32★ Insert the following new Clause –

**“Modernisation of UK law to allow financial market infrastructure to process digital instruments**

- (1) Within three months of the passing of this Act, the Secretary of State must by regulations make the legislative and regulatory changes required to enable the modernisation of UK law to allow the UK’s financial market infrastructure to process digital instruments.
- (2) In making regulations under subsection (1), the Secretary of State must –
  - (a) consider the need to dematerialise securities at the same rate as the European Union;
  - (b) consider the need to review insolvency of companies regulated by the PRA or FCA, central securities depositories regulation and the settlement finality directive to allow digital technology;
  - (c) consider how the trading of tokenised securities (such as company shares using a blockchain based register) can be facilitated on investment exchanges and multilateral trading facilities; and
  - (d) consider whether and how digital technology in post-trade processes should be embraced.
- (3) Regulations under this section are subject to the affirmative procedure.”

LORD SIKKA

BARONESS BENNETT OF MANOR CASTLE

THE LORD BISHOP OF ST ALBANS

33★ Insert the following new Clause –

**“FCA duty to make a statement about ministerial directions on investigations**

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) After section 1T (right to obtain documents and information) insert –

**“1U Duty to make a statement about ministerial directions on investigations**

Where a Minister directs, comments on, or intervenes with an FCA investigation into wrongdoing or malpractice by a company, the FCA must make a public statement about the nature of any such intervention.””

**After Clause 40 - continued**

**34★** Insert the following new Clause –

**“Supervisory Board**

- (1) There is to be a Supervisory Board to perform the function of monitoring the FCA and PRA.
- (2) The Supervisory Board must consist entirely of stakeholders.
- (3) Recruitment for the membership of the Supervisory Board is to be conducted through open competition and the appointments are to be confirmed by the House of Commons Treasury Committee, or another relevant House of Commons Select Committee.
- (4) The Chancellor of the Exchequer may nominate individuals to the Supervisory Board.
- (5) The following are ineligible for appointment to the Supervisory Board –
  - (a) current and past employees of the FCA and the PRA, and
  - (b) current employees of organisations supervised by the FCA and the PRA.
- (6) A member’s membership of the Supervisory Board cannot exceed a period of five years beginning with the day the member’s appointment is confirmed under subsection (3).
- (7) The Supervisory Board has no responsibility for –
  - (a) the day-to-day operations of the FCA or the PRA, and
  - (b) investigations and enforcement of the rules devised by the FCA and the PRA.
- (8) The Supervisory Board’s functions are to –
  - (a) provide strategic oversight of the Executive Boards of the FCA and PRA responsible for day-to-day operations;
  - (b) inquire into the adequacy of resources used and available to the FCA and the PRA;
  - (c) seek explanations from the Executive Board for reasons for the delay in launching and completing investigations; and
  - (d) seek explanations from the Executive Board in relation to the efficiency and effectiveness of the FCA and the PRA in discharging their statutory duties.
- (9) The Supervisory Board shall have powers to –
  - (a) demand explanations from the Executive Board on any matter affecting the protection of consumers from harmful practices;
  - (b) secure information from the Executive Board about their transparency and accountability to the public; and
  - (c) liaise with whistle-blowers and examine FCA and PRA policies for protecting and rewarding whistle-blowers.
- (10) The Supervisory Board must hold open meetings with the Executive Boards of the FCA and the PRA at least once every three months.

**After Clause 40 - continued**

- (11) The working and background papers of the Supervisory Board must be made publicly available.
- (12) The Supervisory Board must lay before each House of Parliament an annual report highlighting matters of concern relating to the operation of the FCA and PRA which it has discovered in exercising its powers and functions.
- (13) The Supervisory Board must be consulted on appointment and reappointment of the Chief Executives of the FCA and the PRA.”

**Member’s explanatory statement**

*The new Clause will create a Supervisory Body for each of the FCA and the PRA. Its function would be to internally monitor the Executive Boards of the FCA and the PRA and provide a diversity of views on the conduct and practices of the FCA and the PRA.*

## LORD HOLMES OF RICHMOND

35★ Insert the following new Clause –

**“Financial Policy Committee: financial exclusion**

- (1) The Bank of England Act 1998 is amended as follows.
- (2) In section 9C (objectives of the Financial Policy Committee) after paragraph (1)(b) insert –
  - “(c) monitoring exclusion from financial services in the United Kingdom.”
- (3) Within six months of the passing of this Act, the Secretary of State must report on any progress made by the Bank of England on offering basic bank accounts directly to financially-excluded individuals.”

BARONESS BENNETT OF MANOR CASTLE  
LORD SIKKA

36★ Insert the following new Clause –

**“UK Finance Watch**

- (1) A body corporate called UK Finance Watch is established.
- (2) The purpose of UK Finance Watch is to provide oversight of –
  - (a) the United Kingdom’s financial services industry,
  - (b) its impacts on the real economy, and
  - (c) all associated regulations.
- (3) The PRA and FCA must fund the activities of UK Finance Watch.
- (4) UK Finance Watch must produce reports on the following matters –
  - (a) proposed changes in financial legislation and regulations;
  - (b) deficiencies identified in retained EU law relating to financial regulation;
  - (c) any other issue relating to financial markets and the financial services sector which, in the opinion of UK Finance Watch, threatens the stability and prosperity of the economy of the United Kingdom.
- (5) The Treasury, PRA and FCA must have regard to any publication produced by UK Finance Watch.

**After Clause 40 - continued**

- (6) The Chancellor of the Exchequer must appoint members to UK Finance Watch.
- (7) When appointing members to UK Finance Watch, the Chancellor of the Exchequer must have regard to the desirability of appointing members who, between them, have expertise in—
  - (a) academia;
  - (b) accounting;
  - (c) law;
  - (d) climate, biodiversity and the environment;
  - (e) trade unions.
- (8) UK Finance Watch may appoint officers and staff to assist their functions.”

**37★** Insert the following new Clause—

**“Regular impact assessments on the UK financial services sector**

- (1) Within 12 months of the passing of this Act, and every subsequent five years, the responsible Treasury Minister, Chairs and Chief Executive Officers of the PRA and FCA must each separately provide reports to relevant Committees of the House of Commons and House of Lords.
- (2) The reports under subsection (1) must include an assessment and critical analysis of the following—
  - (a) the costs and benefits of the financial services sector in the United Kingdom;
  - (b) the impact of the financial services sector on poverty, regional inequality and economic development;
  - (c) the impact of capital allocation decisions on real economic activity.
- (3) In this section, “real economy” means the production, distribution and consumption of goods and services.”

**Clause 44**

EARL HOWE

**38** Page 47, line 33, leave out “subsection (2)” and insert “subsections (2) and (2A)”

***Member’s explanatory statement***

*See the explanatory statement for the Minister’s second amendment at page 47, line 34.*

**39** Page 47, line 34, leave out subsection (2) and insert—

- “(2) In section 34 —
  - (a) subsections (1), (3) and (5) extend to England and Wales only, and
  - (b) subsection (4) extends to England and Wales and Northern Ireland only.”

***Member’s explanatory statement***

*This amendment provides that certain amendments of sections 6 and 7 of the Financial Guidance and Claims Act 2018 in Clause 34 extend only to England and Wales.*

- 40 Page 47, line 34, at end insert –  
“(2A) In Schedule 12, paragraph 14(3A) extends to Northern Ireland only.”

**Member’s explanatory statement**

*This amendment and the Minister’s amendment at page 47, line 33 provide that subsection (5B) of section 303Z1 of the Proceeds of Crime Act 2002, inserted by Schedule 12 to the Bill (see the Minister’s amendment at page 182, line 26), extends to Northern Ireland only.*

**Clause 45**

EARL HOWE

- 41 Page 48, line 21, leave out from “appoint” to end of line 22

**Member’s explanatory statement**

*This amendment is consequential on the Minister’s amendment at page 182, line 26.*

- 42 Page 48, line 34, leave out subsection (9)

**Member’s explanatory statement**

*This amendment is consequential on the Minister’s amendment at page 48, line 21.*

**Schedule 2**

EARL HOWE

- 43 Page 65, line 27, at end insert –  
“(ba) the target in section 1 of the Climate Change Act 2008 (carbon target for 2050), and”

**Member’s explanatory statement**

*This amendment requires the FCA to have regard to the carbon target for 2050 when making Part 9C rules (defined in section 143F of the Financial Services and Markets Act 2000, inserted by Schedule 2 to the Bill).*

BARONESS BENNETT OF MANOR CASTLE

*As an amendment to Amendment 43*

- 44★ After “2050),” insert “and the United Kingdom’s commitments under the United Nations Convention on Biological Diversity,”

LORD EATWELL

BARONESS BOWLES OF BERKHAMSTED

BARONESS NOAKES

BARONESS BENNETT OF MANOR CASTLE

- 45★ Page 66, line 17, at end insert –  
**“143HA Parliamentary engagement on rules**  
 (1) Before publishing a draft of proposed Part 9C rules under section 138I(1)(b), the FCA must make arrangements with the Treasury for the draft to be laid, as soon as practicable, before each House of Parliament.  
 (2) The FCA may not make the rules contained in the draft unless –

**Schedule 2 - continued**

- (a) a relevant committee has, within the relevant period, published a report on the proposed rules, and—
  - (i) the relevant committee consents to proposed rules being made, or
  - (ii) the FCA has, having had due regard to any objections contained within the report, responded to those objections in writing, or
- (b) the relevant period has elapsed without any report being published.
- (3) Subsections (1) and (2) do not apply in the event of rules being made using the exemption under section 138L.
- (4) In the event of rules being made using the exemption under section 138L, the FCA must, as soon as practicable—
  - (a) notify a person nominated by the relevant committee, and
  - (b) provide a written statement of the reasons for the rules being made under that procedure.
- (5) In this section—
  - “relevant committee” means a committee of each House of Parliament, or a joint committee of both, charged with scrutinising proposed Part 9C rules;
  - “the relevant period” means the period—
    - (a) beginning with the first day on which both Houses of Parliament are sitting after the day on which the draft was laid before both Houses as mentioned in subsection (1), and
    - (b) ending with—
      - (i) the end of the period for public consultation specified under section 138I(2)(e), or
      - (ii) in the event of this being less than 8 weeks, or either House of Parliament being adjourned or prorogued for a total of 30 days or more during this period, the end of any period agreed in writing by the FCA and a person nominated by the relevant committee.
- (6) For the purposes of subsection (5)—
  - (a) where a draft is laid before each House of Parliament on different days, the later day is to be taken as the day on which it is laid before both Houses, and
  - (b) if either House of Parliament is recalled, either under standing orders or pursuant to statute, any day on which it sits pursuant to the notice of that recall is to count as a day of adjournment.”

***Member’s explanatory statement***

*This amendment introduces a formal mechanism for Parliament to scrutinise those draft Part 9C rules which are published by the FCA for public consultation. These requirements are disapplied in the event of the FCA using their urgent rule-making powers.*

## EARL HOWE

46 Page 80, line 22, at end insert –

*“Carbon target*

21A In relation to the making of Part 9C rules that are made on or before 1 January 2022 –

- (a) paragraph (ba) of section 143G(1) of the Financial Services and Markets Act 2000 (duty to have regard to carbon target for 2050) does not apply, and
- (b) section 143H(1)(b) of that Act does not require an explanation in respect of matters specified in that paragraph.”

***Member’s explanatory statement***

*This amendment disapplies the FCA’s duty to have regard to the carbon target for 2050 (see the Minister’s amendment at page 65, line 27) in relation to Part 9C rules made on or before 1 January 2022.*

**Schedule 3**

## EARL HOWE

47 Page 82, line 14, at end insert –

“(ca) the target in section 1 of the Climate Change Act 2008 (carbon target for 2050), and”

***Member’s explanatory statement***

*This amendment requires the PRA to have regard to the carbon target for 2050 when making CRR rules (defined in section 144A of the Financial Services and Markets Act 2000, inserted by Part 1 of Schedule 3 to the Bill) and also when making section 192XA rules (see sections 192XA and 192XB, inserted by Part 2 of Schedule 3 to the Bill).*

## LORD EATWELL

BARONESS BOWLES OF BERKHAMSTED

BARONESS NOAKES

BARONESS MCINTOSH OF PICKERING

48★ Page 83, line 2, at end insert –

**“144DA Parliamentary engagement on rules**

- (1) Before publishing a draft of proposed CRR rules under section 138J(1)(b), the PRA must make arrangements with the Treasury for the draft to be laid, as soon as practicable, before each House of Parliament.
- (2) The PRA may not make the rules contained in the draft unless –
  - (a) a relevant committee has, within the relevant period, published a report on the proposed rules, and –
    - (i) the relevant committee consents to proposed rules being made, or
    - (ii) the PRA has, having had due regard to any objections contained within the report, responded to those objections in writing, or
  - (b) the relevant period has elapsed without any report being published.

**Schedule 3 - continued**

- (3) Subsections (1) and (2) do not apply in the event of rules being made using the exemption under section 138L.
- (4) In the event of rules being made using the exemption under section 138L, the PRA must, as soon as practicable—
  - (a) notify a person nominated by the relevant committee, and
  - (b) provide a written statement of the reasons for the rules being made under that procedure.
- (5) In this section—
 

“relevant committee” means a committee of each House of Parliament, or a joint committee of both, charged with scrutinising proposed CRR rules;

“the relevant period” means the period—

  - (a) beginning with the first day on which both Houses of Parliament are sitting after the day on which the draft was laid before both Houses as mentioned in subsection (1), and
  - (b) ending with—
    - (i) the end of the period for public consultation specified under section 138J(2)(e), or
    - (ii) in the event of this being less than 8 weeks, or either House of Parliament being adjourned or prorogued for a total of 30 days or more during this period, the end of any period agreed in writing by the PRA and a person nominated by the relevant committee.
- (6) For the purposes of subsection (5)—
  - (a) where a draft is laid before each House of Parliament on different days, the later day is to be taken as the day on which it is laid before both Houses, and
  - (b) if either House of Parliament is recalled, either under standing orders or pursuant to statute, any day on which it sits pursuant to the notice of that recall is to count as a day of adjournment.”

***Member’s explanatory statement***

*This amendment introduces a formal mechanism for Parliament to scrutinise those draft CRR rules which are published by the PRA for public consultation. These requirements are disapplied in the event of the PRA using their urgent rule-making powers.*

EARL HOWE

49

Page 90, line 20, at end insert—

*“Carbon target*

- 24A In relation to the making of CRR rules or section 192XA rules that are made on or before 1 January 2022—
- (a) paragraph (ca) of section 144C(1) of the Financial Services and Markets Act 2000 (duty to have regard to carbon target for 2050) does not apply, and
  - (b) section 144D(1) of that Act does not require an explanation in respect of matters specified in that paragraph.”

**Member's explanatory statement**

*This amendment disappplies the PRA's duty to have regard to the carbon target for 2050 (see the Minister's amendment at page 82, line 14) in relation to CRR rules and section 192XA rules made on or before 1 January 2022.*

**Schedule 12**

EARL HOWE

50 Page 182, line 26, leave out sub-paragraph (3) and insert –

“(3) After subsection (5) insert –

“(5A) In this Chapter as it extends to England and Wales and Scotland, “relevant financial institution” means –

- (a) a bank,
- (b) a building society,
- (c) an electronic money institution, or
- (d) a payment institution.”

(3A) After subsection (5A) insert –

“(5B) In this Chapter as it extends to Northern Ireland, “relevant financial institution” means –

- (a) a bank, or
- (b) a building society.””

**Member's explanatory statement**

*This amendment provides that it is only Chapter 3B of Part 5 of the Proceeds of Crime Act 2002 as it extends to England and Wales and Scotland that is amended to provide for forfeiture of money in accounts maintained with electronic money institutions and payment institutions.*

51 Page 183, line 24, leave out “303Z1(1A)” and insert “303Z1”

**Member's explanatory statement**

*This amendment is consequential on the Minister's amendment at page 182, line 26.*

# Financial Services Bill

---

MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

---

*19 March 2021*

---