

# Financial Services and Markets Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

*The amendments have been marshalled in accordance with the Order of 24th May 2023, as follows –*

Clause 1	Clauses 49 to 51
Schedule 1	Schedule 8
Clause 2	Clause 52
Schedule 2	Schedule 9
Clauses 3 to 8	Clause 53
Schedule 3	Schedule 10
Clauses 9 to 13	Clause 54
Schedule 4	Schedule 11
Clauses 14 to 20	Clause 55
Schedule 5	Schedules 12 and 13
Clause 21	Clauses 56 to 69
Schedule 6	Schedule 14
Clauses 22 to 48	Clauses 70 to 79
Schedule 7	Title.

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

**Amendment  
No.**

**Clause 1**

LORD SHARKEY  
LORD HODGSON OF ASTLEY ABBOTTS  
LORD THOMAS OF CWMGIEDD

- 1** Page 1, line 6, leave out subsection (1) and insert –
- “(1) A Minister of the Crown may by regulation revoke or replace any legislation referred to in Schedule 1 provided that –
- (a) a document containing a proposal for those regulations has been laid before each House of Parliament,
  - (b) the document has been referred to a Joint Committee of both Houses, and
  - (c) a period of at least 40 days has elapsed after that referral, not including any period during which Parliament is dissolved or prorogued or either House is adjourned for more than four days.

**Clause 1 - continued**

- (2) If the Joint Committee, after considering any regulations laid under this paragraph, finds that—
- (a) the regulations represent a substantial change to the preceding retained EU law, or
  - (b) the Government have not carried out sufficient public consultation lasting at least six weeks before laying the draft before Parliament, a Minister of the Crown must arrange for the instrument to be debated on the floor of each House and voted on before the period in sub-paragraph (1)(c) elapses.
- (3) If any amendments to the regulations, whether or not proposed by the Joint Committee, are agreed by both Houses of Parliament the regulations must be made in the form so amended.
- (4) If one House agrees amendments to the regulations under sub-paragraph (3) the Minister may not make the relevant statutory instrument until the other House has debated and voted on a motion to agree or disagree with those amendments.”

**Schedule 2**

## BARONESS PENN

2 Page 128, line 38, at end insert—

- “(5) Paragraph (6) applies where—
- (a) a central counterparty (A) was taken to be recognised pursuant to Article 25 of the EMIR regulation in accordance with regulation 19A(3), and
  - (b) A ceased to be taken to be so recognised by virtue of the relevant period in the case of A having expired before the commencement day.
- (6) The Bank of England—
- (a) may determine that the relevant period in the case of A is (in spite of its expiry) to be treated, as from the making of the determination, as not having expired, and
  - (b) may accordingly exercise its power under this regulation to vary the relevant period on or after the commencement day.
- (7) In paragraphs (5) and (6) “the commencement day” means the day on which Part 5 of Schedule 2 to the Financial Services and Markets Act 2023 comes into force.
- (8) Paragraphs (5) to (7) expire at the end of 31 December 2025 (but without affecting any variation of a relevant period made under this regulation by virtue of paragraph (6)(b) before that time).”

***Member’s explanatory statement***

*This amendment would enable the Bank of England to restore a third country CCP to the run-off regime in cases where the regime has ended in the case of that CCP before the coming into force of the amendment made by paragraph 51 of Schedule 2 to the Bill.*

**Clause 6**

BARONESS PENN

- 3 Page 6, line 29, after “section 1B(1)” insert “, (4A)”

***Member’s explanatory statement***

*This amendment would ensure that Clause 6(10)(a) of the Bill includes a reference to the duty relating to the competitiveness and growth objective, as inserted into section 1B of the Financial Services and Markets Act 2000 by Clause 24.*

**After Clause 20**

BARONESS PENN

- 4 Insert the following new Clause –

*“Sustainability disclosure requirements*

**Sustainability disclosure requirements**

- (1) FSMA 2000 is amended as follows.
- (2) After section 416 insert –

*“Sustainability disclosure requirements*

**416A SDR policy statement**

- (1) The Treasury may prepare an SDR policy statement.
- (2) An “SDR policy statement” is a statement of the policies of His Majesty’s Government concerning disclosure requirements in connection with matters relating to sustainability.
- (3) In preparing an SDR policy statement, the Treasury must consult the regulators.
- (4) The Treasury must publish any SDR policy statement in such manner as they consider appropriate.
- (5) The Treasury –
  - (a) must keep any SDR policy statement under review;
  - (b) may prepare a revised statement (and subsections (3) and (4) apply in relation to any revised statement);
  - (c) may withdraw any SDR policy statement.
- (6) The Treasury may request a regulator to provide them with a report on any matter that the Treasury require in connection with the preparation of an SDR policy statement.
- (7) A request for a report under subsection (6) –
  - (a) must be made in writing, and
  - (b) may require a regulator to send the report to the Treasury within such reasonable period as may be specified in the request (or such other period as may be agreed).
- (8) A regulator must comply with a request under subsection (6).
- (9) Nothing in section 348, or in regulations made under section 349, is to be taken as preventing or restricting the ability of a regulator to disclose information to the Treasury for the purposes of this section.

**After Clause 20 - continued**

- (10) Subsection (9) does not apply in relation to information provided to a regulator by a regulatory authority outside the United Kingdom.

**416B FCA and PRA rules etc**

- (1) When making rules or issuing guidance in connection with disclosure concerning matters relating to sustainability, a regulator must have regard to any SDR policy statement (within the meaning of section 416A) that the Treasury have published and not withdrawn.
- (2) For the purposes of this section, matters relating to sustainability include matters relating to—
- (a) the environment, including climate change,
  - (b) social, community and human rights issues,
  - (c) tackling corruption and bribery, and
  - (d) governance, so far as relevant to matters within paragraphs (a) to (c)."
- (3) In Schedule 1ZA (the Financial Conduct Authority), in paragraph 11 (annual report), in sub-paragraph (1)—
- (a) after paragraph (ha) insert—
    - “(hc) how it has satisfied the requirement in section 138EA(2) so far as regarding disclosure requirements in connection with matters relating to sustainability;”;
  - (b) after paragraph (ia) insert—
    - “(ib) how it has satisfied the requirement in section 416B to have regard to any SDR policy statement of the Treasury published and not withdrawn under section 416A (sustainability disclosure requirements: policy statement);”.
- (4) In Schedule 1ZB (the Prudential Regulation Authority), in paragraph 19 (annual report), in sub-paragraph (1)—
- (a) after paragraph (e) insert—
    - “(ea) how it has satisfied the requirement in section 138EA(2) so far as regarding disclosure requirements in connection with matters relating to sustainability;”;
  - (b) after paragraph (fa) insert—
    - “(fb) how it has satisfied the requirement in section 416B to have regard to any SDR policy statement of the Treasury under section 416A (sustainability disclosure requirements: policy statement), and”.

***Member’s explanatory statement***

*This amendment would support the regulation of disclosure requirements relating to sustainability by requiring the FCA and the PRA to a.) comply with a request by the Treasury to provide a report in order to inform a policy statement by the Treasury on such requirements and b.) have regard to such a policy statement when making rules or issuing guidance about such requirements.*

## Schedule 5

BARONESS PENN

- 5 Page 137, line 32, leave out sub-paragraphs (3) to (5) and insert –
- “(3) For subsection (4) substitute –
- “(4) If either regulator –
- (a) proposes to vary a Part 4A permission or to impose or vary a requirement,
  - (b) varies a Part 4A permission, or imposes or varies a requirement, with immediate effect,
  - (c) proposes to vary a permission under section 55NA, or
  - (d) varies permission under section 55NA with immediate effect,
- it must give A written notice.””

***Member’s explanatory statement***

*This amendment would align the wording of new section 55Y(4A), being inserted by paragraph 10 of Schedule 5 to the Bill, with section 55Y(4) of the Financial Services and Markets Act 2000, by replacing both those provisions with a new section 55Y(4) which clarifies in a single subsection the circumstances in which a written notice must be given to a person.*

- 6 Page 138, line 8, leave out paragraph 13

***Member’s explanatory statement***

*This amendment is consequential on the amendment at page 137, line 32.*

## After Clause 23

BARONESS WHEATCROFT  
BARONESS SHEEHAN

- 7 Insert the following new Clause –

**“Vote reporting**

- (1) The FCA must –
- (a) make rules requiring relevant FCA-regulated persons to give clients information on request in a machine-readable form about the exercise by the persons or on their behalf of all voting rights attached to assets in which the clients have an interest, including in respect of any specified description of scheme or investment vehicle, within 30 days of that request being received;
  - (b) issue guidance in respect of the format of the information provided.
- (2) In this section –
- “relevant FCA-regulated persons” means –
- (a) persons managing investments within the meaning of an order under section 22 of FSMA 2000, including the activity described in paragraph 6 of Schedule 2 of that Act,
  - (b) persons effecting or carrying out a contract of insurance within the meaning of an order under section 22 of FSMA 2000;
- “clients” means –

**After Clause 23 - continued**

- (a) trustees of occupational pension schemes within the meaning of section 1 of the Pension Schemes Act 1993,
- (b) an administering authority of the local government pension scheme,
- (c) relevant FCA-regulated persons,
- (d) managers of personal pension schemes within the meaning of an order under section 22 of FSMA 2000,
- (e) managers of stakeholder pension schemes within the meaning of such an order,
- (f) beneficiaries of occupational pension schemes described in paragraph (a) and beneficiaries of the local government pension scheme, or
- (g) clients of personal pension schemes described in paragraph (d) and stakeholder pension schemes described in paragraph (e)."

***Member's explanatory statement***

*This amendment requires the FCA to make rules requiring fund managers, personal pension providers and insurers to give information to clients and beneficiaries on the exercise of all voting rights on their behalf, however those rights are held, in a standard format.*

LORD TYRIE  
BARONESS KRAMER

8 Insert the following new Clause –

**“Regulatory Decisions Committee**

- (1) The FCA must establish and maintain a committee to be known as the Regulatory Decisions Committee (the RDC).
- (2) The purpose of the RDC will be to take contested enforcement decisions on behalf of the FCA.
- (3) The RDC must, in its decision-making function, be operationally independent of the FCA.
- (4) The chair of the RDC must be nominated by the Chancellor of the Exchequer, and such nomination only has effect if confirmed by the Treasury Select Committee in the House of Commons.
- (5) All other members of the RDC must be nominated by the FCA Board, and such nominations only have effect if approved by the chair.
- (6) Members' appointment must be for a fixed term to be determined by the FCA, with such term to be no more than five years.
- (7) Members of the RDC may be appointed for up to two terms.
- (8) The FCA Board may remove a member of the RDC, but only in the event of that member's misconduct or incapacity.
- (9) All members of the RDC including its chairman and deputy chairs, must be operationally independent.
- (10) For the purpose of subsection (9), a person is not operationally independent if they are an employee of the FCA or any other UK financial regulator.

**After Clause 23 - continued**

- (11) Other than those for purely administrative purposes, all interactions between the FCA and members of the RDC relating to any specific potential enforcement actions must be minuted and disclosed to any person potentially subject to that action.
- (12) The FCA must make available to the RDC sufficient resources, including legal advisers and support staff, to enable it to perform its function of determining fairly and expeditiously the matters which it is required to consider.
- (13) Such staff may be employees of the FCA but must be operationally independent of FCA staff involved in conducting investigations and presenting cases to the RDC.
- (14) The Chair of the RDC must, at least once per year, deliver a report to the FCA, His Majesty's Treasury, and the Treasury Select Committee in the House of Commons. Such report must address at least –
  - (a) the extent to which the RDC was able, in the period under review, to determine fairly and expeditiously the matters which it was required to consider,
  - (b) the resourcing of the RDC, and the extent to which the resources available to it have been sufficient to enable it to perform its functions, and
  - (c) the independence of the RDC, and in particular any circumstances or events where any impression of partiality, bias or undue access by the FCA to the RDC may have arisen.”

**Clause 24**

BARONESS BOWLES OF BERKHAMSTED

- 9 Page 38, line 25, leave out “including in particular” and insert “through fair and efficient operation of”

***Member's explanatory statement***

*This amendment ensures that financial services operate to the benefit of the economy rather than financial services being an end in itself.*

BARONESS BENNETT OF MANOR CASTLE

LORD SIKKA

- 10 Leave out Clause 24

***Member's explanatory statement***

*This amendment is to ensure that the regulators' core duty is to provide stability to the financial system and protect consumers, not growth or competitiveness.*

### After Clause 24

BARONESS PENN

11 Insert the following new Clause—

**“Competitiveness and growth objective: reporting requirements**

- (1) Each regulator must make two reports to the Treasury on how it has complied with its duty to advance the competitiveness and growth objective.
- (2) The reports prepared by each regulator under subsection (1) must in particular explain—
  - (a) the action taken by the regulator to ensure that the competitiveness and growth objective is embedded in its operations, processes and decision-making, and
  - (b) how any rules and guidance that the regulator has made advance that objective.
- (3) The first report under this section must be made before the end of 12 months beginning with the first day on which section 24 of this Act comes into force, and must relate to that period.
- (4) The second report under this section must be made before the end of 24 months beginning with the first day on which section 24 of this Act comes into force, and must relate to the period beginning with the day on which the first report is published.
- (5) The Treasury must lay a copy of each report prepared under this section before Parliament.
- (6) Each regulator must publish its reports prepared under this section in such manner as it thinks fit.
- (7) In this section—
  - (a) “regulator” means the FCA and the PRA;
  - (b) references to the competitiveness and growth objective, and the duty to advance that objective, are—
    - (i) in relation to the FCA, references to its objective in section 1EB of FSMA 2000 and to its duty to advance that objective under section 1B(4A) of that Act, and
    - (ii) in relation to the PRA, references to its objective in section 2H(1B) of FSMA 2000 and to its duty to advance that objective under section 2H(1)(b) of that Act.”

***Member’s explanatory statement***

*This amendment would insert a new Clause to ensure that the FCA and the PRA, in addition to their annual reports, each provide for two consecutive years a report on the new competitiveness and growth objective, as inserted into the Financial Services and Markets Act 2000 by Clause 24 of the Bill.*



## LORD HOLMES OF RICHMOND

12 Insert the following new Clause—

**“Regulators’ duty to report on competitiveness and growth objective**

- (1) The FCA and PRA must each lay before each House of Parliament a report as soon as practicable after the end of—
  - (a) the period of 12 months beginning with the day on which this Act is passed, and
  - (b) every subsequent 12-month period,
 on how they consider that they have facilitated the international competitiveness of the economy of the United Kingdom and its growth in the medium to long term.
- (2) The reports must include analysis and data on the following—
  - (a) steps taken to simplify their respective regulatory rulebooks and frameworks;
  - (b) the number of new market entrants to the United Kingdom;
  - (c) new regulations introduced in the previous twelve months;
  - (d) an assessment of the impact of the new regulations on United Kingdom competitiveness;
  - (e) comparative analysis of the number of new authorisations in the United Kingdom and other international jurisdictions in the previous 12 months;
  - (f) comparative analysis of product and service innovations introduced in the United Kingdom and other international jurisdictions in the previous 12 months;
  - (g) such other matters as the Treasury may from time to time direct.”

***Member’s explanatory statement***

*This amendment would require both the FCA and PRA to each publish a report annually setting out how they have facilitated international competitiveness and growth against a range of data and analysis requirements.*

13 Insert the following new Clause—

**“Financial Inclusion Objective for the FCA**

- (1) FSMA 2000 is amended as follows.
- (2) In section 1B (FCA’s general duties), after subsection (4A) insert—
 

“(4B) When discharging its general functions in the way mentioned in subsection (1) the FCA must, so far as reasonably possible, act in a way which, as a secondary objective, advances the financial inclusion objective (see section 1EC).”
- (3) After section 1EB insert—
 

**“1EC Financial Inclusion Objective**

The financial inclusion objective is: facilitating as far as is practical, the inclusivity of the UK’s financial system.””

**After Clause 24 - continued**

LORD DAVIES OF BRIXTON  
BARONESS BENNETT OF MANOR CASTLE

14 Insert the following new Clause –

**“Consumer protection objective: mental health**

In section 1C of FSMA 2000 (the consumer protection objective) after subsection (2)(h) insert –

“(i) the principle of protecting the mental health of consumers.””

**Clause 25**

BARONESS HAYMAN  
BARONESS SHEEHAN  
LORD VAUX OF HARROWDEN  
THE EARL OF CAITHNESS

15 Page 39, leave out lines 11 to 13 and insert –

“(c) the need to contribute towards achieving compliance with sections 1 (the target for 2050) and 4(1)(b) (net UK carbon account) of the Climate Change Act 2008, and the conservation and enhancement of the natural environment, including compliance with relevant targets approved by Parliament, the Scottish Parliament, Senedd Cymru, and the Northern Ireland Assembly.”

***Member’s explanatory statement***

*This amendment adds nature to the new regulatory principle on net zero emissions.*

**Clause 26**

BARONESS PENN

16 Page 39, line 15, at end insert –

“(1A) In section 1JA (Treasury recommendations in connection with general duties), after subsection (1)(c) insert –

“(ca) how to discharge the duty in section 1B(4A)(duty to advance competitiveness and growth objective),”.

(1B) In section 1K (guidance about objectives), after subsection (1) insert –

“(1A) The reference in subsection (1) to the FCA’s operational objectives includes, in its application as a secondary objective, the competitiveness and growth objective (see section 1EB).”.

(1C) In section 2I (guidance about objectives), after subsection (1) insert –

“(1A) The reference in subsection (1) to the PRA’s objectives includes, in their application as secondary objectives, the competition objective and competitiveness and growth objective (see section 2H).”.

(1D) In section 3B (regulatory principles to be applied by both regulators), for subsection (3) substitute –

“(3) “Objectives” –

(a) in relation to the FCA means –

**Clause 26 - continued**

- (i) operational objectives, and
- (ii) in its application as a secondary objective, the competitiveness and growth objective (see section 1EB), and
- (b) in relation to the PRA means –
  - (i) the PRA’s objectives, and
  - (ii) in their application as secondary objectives, the competition objective and competitiveness and growth objective (see section 2H).”.
- (1E) In section 3D (duty of FCA and PRA to ensure co-ordinated exercise of functions), for subsection (4) substitute –
  - “(4) In this section, “objectives” –
    - (a) in relation to the FCA means –
      - (i) operational objectives, and
      - (ii) in its application as a secondary objective, the competitiveness and growth objective (see section 1EB), and
    - (b) in relation to the PRA means –
      - (i) the PRA’s objectives, and
      - (ii) in their application as secondary objectives, the competition objective and competitiveness and growth objective (see section 2H).
  - (5) Where a regulator is proposing to exercise a function that is not one of its general functions, the reference to “objectives” in subsection (1)(a) does not include the secondary objectives mentioned in subsection (4)(a)(ii) and (b)(ii).
  - (6) In this section, “general functions” –
    - (a) in relation to the FCA, has the same meaning as in section 1B(6), and
    - (b) in relation to the PRA, has the same meaning as in section 2J(1).”.
- (1F) In section 138I (consultation by the FCA), in subsection (2)(d) after “1B(1)” insert “, (4A)”.

**Member’s explanatory statement**

*This amendment would ensure that provisions of the Financial Services and Markets Act 2000 that refer to the objectives of the FCA and the PRA also include a reference to the new competitiveness and growth objective, as inserted by Clause 24 of the Bill.*

17

Page 39, line 20, at end insert –

- “(2A) In section 232A (scheme operator’s duty to provide information to FCA) –
  - (a) the existing words become subsection (1), and
  - (b) after that subsection insert –
    - “(2) The reference in subsection (1) to the FCA’s operational objectives includes, in its application as a secondary objective, the competitiveness and growth objective (see section 1EB).”

**Member's explanatory statement**

*This amendment would ensure that section 232A of the Financial Services and Markets Act 2000 includes a reference to the competitiveness and growth objective, as inserted by Clause 24 of the Bill.*

**After Clause 26**

BARONESS CHAPMAN OF DARLINGTON  
BARONESS TYLER OF ENFIELD

18 Insert the following new Clause—

**“FCA to have regard to financial inclusion within consumer protection objective**

- (1) FSMA 2000 is amended as follows.
- (2) In section 1C (the consumer protection objective), after subsection (2)(c) insert—
  - “(ca) financial inclusion;”.

LORD HOLMES OF RICHMOND

19 Insert the following new Clause—

**“Regulatory principles to be applied by both regulators: proportionality principle**

In section 3B(1) of FSMA 2000 (regulatory principles to be applied by both regulators), in paragraph (b), for the words from “considered” to the end of that paragraph substitute “taking into consideration the nature of the service or product being delivered, the nature of risk to the consumer, whether the cost of implementation is proportionate to that level of risk and whether the burden or restriction enhances UK international competitiveness;”.

**Member's explanatory statement**

*This would amend the existing regulatory principle for both regulators and require that the nature of and risk to the consumer, and the service or product being delivered, must be taken into account when imposing a new burden or restriction.*

**Clause 27**

BARONESS PENN

20 Page 40, line 6, at end insert—

- “(1A) The statement must provide information about—
  - (a) how representations (including by a statutory panel) can be made to each regulator with respect to its review of rules under section 3RA, and
  - (b) the arrangements to ensure that those representations are considered.
- (1B) In this section “statutory panel” has the meaning given by section 1RB(5).”

**Member's explanatory statement**

*This amendment would impose a duty on the FCA and PRA to ensure that those regulators include in their statements of policy about the review of rules (required by section 3RB of the Financial Services and Markets Act 2000, as inserted by Clause 27) information about how representations (including by statutory panels) can be made and considered.*

- 21 Page 41, line 13, at end insert “and  
(iii) advance the competitiveness and growth objective;”

***Member’s explanatory statement***

*This amendment would ensure that new section 3RD of the Financial Services and Markets Act 2000, as inserted by Clause 27 of the Bill, includes, for the purposes of the FCA’s report, a reference to the competitiveness and growth objective, as inserted by Clause 24 of the Bill.*

- 22 Page 41, line 15, at end insert “and  
(ii) advance the PRA’s competition objective and the PRA’s competitiveness and growth objective;”

***Member’s explanatory statement***

*This amendment would ensure that new section 3RD of the Financial Services and Markets Act 2000, as inserted by Clause 27 of the Bill, includes, for the purposes of the PRA’s report, a reference to the competition objective and the competitiveness and growth objective, as inserted by Clause 24 of the Bill. (The words after “review” in section 3RD(2)(b) would become subparagraph (i)).*

**Clause 35**

BARONESS PENN

- 23 Page 49, line 40, at end insert –  
“(ic) how it has complied with the statement of policy on panel appointments prepared under section 1RA in relation to the process for making appointments and the matters considered in determining who is appointed, and”

***Member’s explanatory statement***

*This amendment would ensure that the FCA includes in its annual report under paragraph 11 of Schedule 1ZA to the Financial Services and Markets Act 2000 a summary of how it has complied with the statement of policy on panel appointments in section 1RA as inserted into FSMA 2000 by Clause 43.*

- 24 Page 50, line 6, at end insert –  
“(za) after paragraph (ba) insert –  
“(bb) how it has complied with the statement of policy on panel appointments prepared under section 2NA in relation to the process for making appointments and the matters considered in determining who is appointed,”

***Member’s explanatory statement***

*This amendment would ensure that the PRA includes in its annual report under paragraph 19 of Schedule 1ZB to the Financial Services and Markets Act 2000 a summary of how it has complied with the statement of policy on panel appointments in section 2NA as inserted into FSMA 2000 by Clause 43.*

**Clause 36**

LORD FORSYTH OF DRUMLEAN  
LORD NASEBY  
LORD VAUX OF HARROWDEN

- 25 Page 50, line 30, leave out “chair of the Treasury Committee of the House of Commons” and insert “chairs of the relevant committees of Parliament”

BARONESS PENN

- 26 Page 50, line 30, leave out “the Treasury Committee of the House of Commons” and insert “each relevant Parliamentary Committee”

***Member’s explanatory statement***

*This amendment, together with the amendment at page 50, line 43, would extend the duties of the FCA to notify the Treasury Committee of the House of Commons so as to include a relevant Committee of the House of Lords and a Joint Committee.*

- 27 Page 50, line 40, at end insert –  
“(4A) The reference in sub-paragraph (4)(a) to the FCA’s operational objectives includes, in its application as a secondary objective, the competitiveness and growth objective (see section 1EB).”

***Member’s explanatory statement***

*This amendment would ensure that the references to the FCA’s operational objectives in new paragraph 28 of Schedule 1ZA to the Financial Services and Markets Act 2000, as inserted by Clause 36 of the Bill, includes a reference to the competitiveness and growth objective, as inserted by Clause 24 of the Bill.*

- 28 Page 50, line 43, leave out “Treasury Committee of the House of Commons” and insert “relevant Parliamentary Committees”

***Member’s explanatory statement***

*See the explanatory statement for the amendment at page 50, line 30.*

LORD FORSYTH OF DRUMLEAN  
LORD VAUX OF HARROWDEN

- 29 Page 50, leave out line 43 and insert “relevant committees of Parliament”

BARONESS PENN

- 30 Page 50, line 43, at end insert –  
“(5A) References in this paragraph to the relevant Parliamentary Committees are references to –  
(a) the Treasury Committee of the House of Commons,  
(b) the Committee of the House of Lords which –  
(i) is charged with responsibility by that House for the purposes of this paragraph, and  
(ii) has notified the FCA that it is a relevant Parliamentary Committee for those purposes, and  
(c) the Joint Committee of both Houses which –

**Clause 36 - continued**

- (i) is charged with responsibility by those Houses for the purposes of this paragraph, and
- (ii) has notified the FCA that it is a relevant Parliamentary Committee for those purposes.”

**Member’s explanatory statement**

*See the explanatory statement for the amendment at page 50, line 30.*

LORD FORSYTH OF DRUMLEAN  
LORD VAUX OF HARROWDEN

- 31 Page 51, leave out lines 1 to 11 and insert—
- “(6) In this paragraph “relevant committees of Parliament” means—
    - (a) the Treasury Committee of the House of Commons, or another committee of the House of Commons whose terms of reference designate it as having functions for the purposes of this paragraph (but not more than one committee of the House of Commons at the same time);
    - (b) the Economic Affairs Committee or Industry and Regulators Committee of the House of Lords, or another committee of the House of Lords whose terms of reference designate it as having functions for the purposes of this paragraph (but not more than one committee of the House of Lords at the same time);
    - (c) a joint committee of both Houses whose terms of reference designate it as having functions for the purposes of this paragraph.”
- 32 Page 51, line 42, leave out “chair of the Treasury Committee of the House of Commons” and insert “chairs of the relevant committees of Parliament”

BARONESS PENN

- 33 Page 51, line 42, leave out “the Treasury Committee of the House of Commons” and insert “each relevant Parliamentary Committee”

**Member’s explanatory statement**

*This amendment, together with the amendment at page 52, line 11, would extend the duties of the PRA to notify the Treasury Committee of the House of Commons so as to include a relevant Committee of the House of Lords and a Joint Committee.*

- 34 Page 52, line 8, at end insert—
- “(4A) The reference in sub-paragraph (4)(a) to the PRA’s objectives includes, in their application as secondary objectives, the competition objective and the competitiveness and growth objective (see section 2H).”

**Member’s explanatory statement**

*This amendment would ensure that the references to the PRA’s objectives in new paragraph 36 of Schedule 1ZB to the Financial Services and Markets Act 2000, as inserted by Clause 36 of the Bill, includes a reference to the competition objective and the competitiveness and growth objective, as inserted by Clause 24 of the Bill.*

- 35 Page 52, line 11, leave out “Treasury Committee of the House of Commons” and insert “relevant Parliamentary Committees”

***Member’s explanatory statement***

*See the explanatory statement for the amendment at page 51, line 42.*

LORD FORSYTH OF DRUMLEAN  
LORD VAUX OF HARROWDEN

- 36 Page 52, leave out line 11 and insert “relevant committees of Parliament”

BARONESS PENN

- 37 Page 52, line 11, at end insert –

“(5A) References in this paragraph to the relevant Parliamentary Committees are references to –

- (a) the Treasury Committee of the House of Commons,
- (b) the Committee of the House of Lords which –
  - (i) is charged with responsibility by that House for the purposes of this paragraph, and
  - (ii) has notified the PRA that it is a relevant Parliamentary Committee for those purposes, and
- (c) the Joint Committee of both Houses which –
  - (i) is charged with responsibility by those Houses for the purposes of this paragraph, and
  - (ii) has notified the PRA that it is a relevant Parliamentary Committee for those purposes.”

***Member’s explanatory statement***

*See the explanatory statement for the amendment at page 51, line 42.*

LORD FORSYTH OF DRUMLEAN  
LORD VAUX OF HARROWDEN

- 38 Page 52, leave out lines 12 to 22 and insert –

“(6) In this paragraph “relevant committees of Parliament” means –

- (a) the Treasury Committee of the House of Commons, or another committee of the House of Commons whose terms of reference designate it as having functions for the purposes of this paragraph (but not more than one committee of the House of Commons at the same time);
- (b) the Economic Affairs Committee or Industry and Regulators Committee of the House of Lords, or another committee of the House of Lords whose terms of reference designate it as having functions for the purposes of this paragraph (but not more than one committee of the House of Lords at the same time);
- (c) a joint committee of both Houses whose terms of reference designate it as having functions for the purposes of this paragraph.”



**After Clause 37**

BARONESS CHAPMAN OF DARLINGTON  
 BARONESS TYLER OF ENFIELD  
 BARONESS ALTMANN  
 BARONESS HAYTER OF KENTISH TOWN

39 Insert the following new Clause—

**“Consumer Panel duty to report to Parliament**

- (1) FSMA 2000 is amended as follows.
- (2) In section 1Q (the Consumer Panel), at end insert—
  - “(7) The Consumer Panel must lay an annual report before each House of Parliament evaluating the FCA’s fulfilment of its statutory duty to protect consumers, including comments on—
    - (a) the adequacy and appropriateness of the FCA’s use of its regulatory powers,
    - (b) the measures the FCA has taken to protect vulnerable consumers, including pensioners, people with disabilities, and people receiving forms of income support, and
    - (c) the FCA’s receptiveness to the recommendations of the Consumer Panel.”

***Member’s explanatory statement***

*This new Clause would introduce a further level of Parliamentary scrutiny of the work of the FCA to protect consumers by requiring the Financial Services Consumer Panel to lay an annual report before Parliament outlining its views on the FCA’s fulfilment of its statutory duty to protect consumers.*

LORD HOLMES OF RICHMOND

40 Insert the following new Clause—

**“Requirement to publish regulatory performance information on authorised firms**

- (1) The FCA must lay before each House of Parliament a report on its regulatory performance as soon as practicable after the end of—
  - (a) the period of 6 months beginning with the day on which this Act is passed, and
  - (b) subsequently, each quarter.
- (2) The report must include the average length of time taken from application to final decision for each of the following regulatory responsibilities—
  - (a) approved persons;
  - (b) change in control;
  - (c) variation of permission;
  - (d) waivers and modifications that alter compliance obligations.”

***Member’s explanatory statement***

*This amendment requires the FCA to publish regular reports to Parliament on their regulatory performance for existing authorised entities and persons.*

41 Insert the following new Clause—

**“Requirement to publish regulatory performance information on new authorisations**

- (1) The FCA and PRA must each lay before each House of Parliament a report on their regulatory performance as soon as practicable after the end of—
  - (a) the period of six months beginning with the day on which this Act is passed, and
  - (b) subsequently, each quarter.
- (2) The reports must include analysis and data on the following—
  - (a) the total number of new applications for authorisation made to each regulator each year, and a breakdown by authorisation type;
  - (b) the rates of approval for applications for authorisation by each regulator and a breakdown by authorisation type;
  - (c) the average length of time taken from application to final authorisation decision by each regulator;
  - (d) an estimate of the time and costs required by an applicant to comply with information requirements for authorisation;
  - (e) such other matters as the Treasury may from time to time direct.”

***Member’s explanatory statement***

*This amendment requires both regulators to publish regular reports to Parliament on their regulatory performance for new applicants for regulation.*

**Clause 41**

LORD HOLMES OF RICHMOND

42 Page 57, line 22, at end insert—

- “(c) be provided with any information or data that the Panel requires in order to fulfil its duties,
- (d) publish the agendas and minutes of meetings of the Panel, and
- (e) make publicly available its recommendations in full, including, but not limited to, the evidence base and analysis it used to make its recommendations, the assessed costs and benefits of the FCA’s activities and the range of representations made by Panel members to those recommendations.”

***Member’s explanatory statement***

*This amendment would require the FCA to provide its CBA Panel with the necessary data and information to undertake its duties and ensure that the Panel’s recommendations were made publicly available.*

BARONESS PENN

43 Page 57, line 29, at end insert—

- “(7A) The FCA must appoint to the FCA Cost Benefit Analysis Panel at least two individuals who are employed by persons authorised for the purposes of this Act by the FCA, with each one being employed by a different person.”

**Member's explanatory statement**

*This amendment would impose a duty on the FCA to ensure that the FCA Cost Benefit Analysis Panel includes at least two members who are employed by persons authorised by the FCA under the Financial Services and Markets Act 2000.*

LORD HOLMES OF RICHMOND

44 Page 57, line 29, at end insert –

“(7A) The Panel must include at least two representatives of FCA authorised firms.”

45 Page 58, line 15, at end insert –

“(c) be provided with any information or data that the Panel requires in order to fulfil its duties,  
(d) publish the agendas and minutes of meetings of the Panel, and  
(e) make publicly available its recommendations in full, including, but not limited to, the evidence base and analysis it used to make its recommendations, the assessed costs and benefits of the PRA's activities and any dissenting representations made by Panel members to those recommendations.”

**Member's explanatory statement**

*This amendment would require the PRA to provide its CBA Panel with the necessary data and information to undertake its duties and ensure that the Panel's recommendations were made publicly available.*

BARONESS PENN

46 Page 58, line 22, at end insert –

“(7A) The PRA must appoint to the PRA Cost Benefit Analysis Panel at least two individuals who are employed by PRA-authorized persons, with each one being employed by a different person.”

**Member's explanatory statement**

*This amendment would impose a duty on the PRA to ensure that the PRA Cost Benefit Analysis Panel includes at least two members who are employed by PRA-authorized persons.*

LORD HOLMES OF RICHMOND

47 Page 58, line 22, at end insert –

“(7A) The Panel must include at least two representatives of PRA authorised firms.”

48 Page 58, leave out lines 28 and 29 and insert –

“(11) The PRA is required to publish a response to these representations within 30 days, including a statement of actions it will take as a result of the recommendations.”

**Member's explanatory statement**

*This amendment would require the PRA to publish their responses and actions to the CBA Panel's recommendations within 30 days.*

## BARONESS PENN

49 Page 58, line 31, leave out “paragraph 10(1)” insert “paragraphs 10(1) and 10A”

**Member’s explanatory statement**

*This amendment ensures that the PRA Cost Benefit Analysis Panel (established under Clause 41) will be required to provide advice in relation to cost benefit analyses prepared for the purposes of consultation under the new paragraph 10A of Schedule 17A to FSMA 2000 (inserted by Clause 19).*

**After Clause 44**

## BARONESS PENN

50 Insert the following new Clause—

**“Panel reports**

- (1) The Treasury may by regulations require specified statutory panels of the regulator to produce an annual report on their work and provide that report to the Treasury.
- (2) Regulations under subsection (1) may make provision about the content of the annual report.
- (3) The Treasury must lay a copy of each report prepared by virtue of this section before Parliament.
- (4) Each specified statutory panel of the regulator must publish its reports prepared by virtue of this section in such manner as it thinks fit.
- (5) In this section—
  - (a) “statutory panels of the regulator” means—
    - (i) in relation to the FCA, the panels mentioned in section 1RA(8) of FSMA 2000,
    - (ii) in relation to the PRA, the panels mentioned in section 2NA(8) of FSMA 2000, and
    - (iii) in relation to the Payment Systems Regulator, a panel established under section 103(3) of the Financial Services (Banking Reform) Act 2013;
  - (b) “specified” means specified in regulations under this section.
- (6) Regulations under this section are subject to the negative procedure.”

**Member’s explanatory statement**

*This new Clause would provide the Treasury with a power to make regulations to require annual reports to be produced by the statutory panels established under the Financial Services and Markets Act 2000 and the Financial Services (Banking Reform) Act 2013.*

## LORD BRIDGES OF HEADLEY

51★ Insert the following new Clause—

**“Cost Benefit Analysis Panel: annual report**

- (1) The Treasury must appoint two independent panels to monitor the Cost Benefit Analysis Panels of the FCA and PRA, as established under sections 138IA and 138JA of FSMA 2000 (inserted by section 41).

**After Clause 44 - continued**

- (2) The Chair of the independent panels must be a person with experience in the financial services sector.
- (3) The independent panels must be appointed within 3 months of the relevant Cost Benefit Analysis Panels being appointed.
- (4) The independent panels must lay a report before Parliament within 12 months of the appointment of the relevant Cost Benefit Analysis Panel.
- (5) The reports must assess, among other things, the performance and effectiveness of the Cost Benefit Analysis Panels.
- (6) The FCA and PRA must respond to the relevant reports within 3 months of the report being laid before Parliament, and they must identify actions they will take in response.”

**Clause 46**

BARONESS PENN

52 Page 67, line 14, at end insert –

- “(1A) The statement must provide information about –
- (a) how representations (including by a statutory panel) can be made to the Bank with respect to its review of rules under section 300I, and
  - (b) the arrangements to ensure that those representations are considered.
- (1B) In this section “statutory panel” has the meaning given by section 1RB(5).”

**Member’s explanatory statement**

*This amendment would impose a duty on the Bank of England to ensure that the Bank includes in its statement of policy about the review of rules (required by section 300J of the Financial Services and Markets Act 2000, as inserted by Clause 46) information about how representations (including by statutory panels) can be made and considered.*

53 Page 68, line 23, at end insert “and

- (ii) the Bank’s secondary innovation objective (see section 30D(2) of the Bank of England Act 1998);”

**Member’s explanatory statement**

*This amendment would ensure that new section 300L of the Financial Services and Markets Act 2000, as inserted by Clause 46 of the Bill, includes, for the purposes of the Bank’s report, a reference to the Bank’s secondary innovation objective, as inserted by Clause 45 of the Bill. (The words after “advance” in section 300L(2)(a) would become sub-paragraph (i)).*

**Clause 47**

BARONESS PENN

54 Page 72, line 32, at end insert “and the Bank’s secondary innovation objective (see section 30D(2) of the Bank of England Act 1998)”

**Member's explanatory statement**

*This amendment would ensure that new paragraph 33B of Schedule 17A to the Financial Services and Markets Act 2000, as inserted by Clause 47(14) of the Bill, includes a reference to the Bank's secondary innovation objective, as inserted into the Bank of England Act 1998 by Clause 45 of the Bill.*

55 Page 72, line 37, at end insert –

“(g) in sub-paragraph (5A)(b)(ii) and (c)(ii), the references to the PRA being notified were references to the Bank being notified.”

**Member's explanatory statement**

*This amendment would extend the duties of the Bank of England to notify the Treasury Committee of the House of Commons so as to include a relevant Committee of the House of Lords and a Joint Committee.*

**Schedule 7**

BARONESS PENN

56 Page 152, line 44, at end insert –

- “(1A) The statement must provide information about –
- (a) how representations (including by a relevant panel) can be made to the Regulator with respect to its review of requirements under section 104B, and
  - (b) the arrangements to ensure that those representations are considered.
- (1B) In this section “relevant panel” means –
- (a) a panel of the Payment Systems Regulator established under section 103(3),
  - (b) a panel of the FCA mentioned in section 1RA(8) of FSMA 2000, and
  - (c) a panel of the PRA mentioned in section 2NA(8) of FSMA 2000.”

**Member's explanatory statement**

*This amendment would impose a duty on the Payment Systems Regulator to ensure that the Regulator includes in its statement of policy about the review of requirements (required by section 104B of the Financial Services (Banking Reform) Act 2013, as inserted by paragraph 7 of Schedule 7 to the Bill) information about how representations (including by statutory panels) can be made and considered.*

57 Page 157, line 30, at end insert –

“(bb) set out how the Regulator has complied with the statement of policy on panel appointments prepared under section 104I in relation to the process for making appointments and the matters considered in determining who is appointed,”

**Member's explanatory statement**

*This amendment would ensure that the Payment Systems Regulator includes in its annual report under paragraph 7 of Schedule 4 to the Financial Services (Banking Reform) Act 2013 a summary of how it has complied with the statement of policy on panel appointments in section 104I as inserted into the 2013 Act by paragraph 7 of Schedule 7.*

- 58 Page 158, line 36, leave out “the Treasury Committee of the House of Commons” and insert “each relevant Parliamentary Committee”

***Member’s explanatory statement***

*This amendment, together with the amendment at page 159, line 5, would extend the duties of the Payment Systems Regulator to notify the Treasury Committee of the House of Commons so as to include a relevant Committee of the House of Lords and a Joint Committee.*

- 59 Page 159, line 5, leave out “Treasury Committee of the House of Commons” and insert “relevant Parliamentary Committees”

***Member’s explanatory statement***

*See the explanatory statement for the amendment at page 158, line 36.*

- 60 Page 159, line 6, at end insert –
- “(5A) References in this paragraph to the relevant Parliamentary Committees are references to –
- (a) the Treasury Committee of the House of Commons,
  - (b) the Committee of the House of Lords which –
    - (i) is charged with responsibility by that House for the purposes of this paragraph, and
    - (ii) has notified the Regulator that it is a relevant Parliamentary Committee for those purposes, and
  - (c) the Joint Committee of both Houses which –
    - (i) is charged with responsibility by those Houses for the purposes of this paragraph, and
    - (ii) has notified the Regulator that it is a relevant Parliamentary Committee for those purposes.”

***Member’s explanatory statement***

*See the explanatory statement for the amendment at page 158, line 36.*

**Clause 50**

BARONESS PENN

- 61 Page 74, line 9, at end insert –
- “(4D) Where representations are made to the FCA by a Committee of the House of Commons or the House of Lords or a Joint Committee of both Houses in accordance with subsection (2)(e), the FCA’s account mentioned in subsection (4) must also describe how the FCA has considered the representations made by that Committee in making the proposed rules.””

***Member’s explanatory statement***

*This amendment would impose a duty on the FCA to include in the account that the FCA must publish under section 138I(4) of the Financial Services and Markets Act 2000 details about representations made by Parliamentary Committees.*

62 Page 74, line 23, at end insert –

“(4D) Where representations are made to the PRA by a Committee of the House of Commons or the House of Lords or a Joint Committee of both Houses in accordance with subsection (2)(e), the PRA’s account mentioned in subsection (4) must also describe how the PRA has considered the representations made by that Committee in making the proposed rules.””

***Member’s explanatory statement***

*This amendment would impose a duty on the PRA to include in the account that the PRA must publish under section 138J(4) of the Financial Services and Markets Act 2000 details about representations made by Parliamentary Committees.*

63 Page 74, line 36, at end insert –

“(5D) Where representations are made to the Payment Systems Regulator by a Committee of the House of Commons or the House of Lords or a Joint Committee of both Houses in accordance with subsection (3)(d), the Payment Systems Regulator’s account mentioned in subsection (5) must also describe how the Payment Systems Regulator has considered the representations made by that Committee in making the proposed requirement.”

***Member’s explanatory statement***

*This amendment would impose a duty on the Payment Systems Regulator to include in the account that the Payment Systems Regulator must publish under section 104(5) of the Financial Services (Banking Reform) Act 2013 details about representations made by Parliamentary Committees.*

**After Clause 50**

LORD BRIDGES OF HEADLEY  
BARONESS BOWLES OF BERKHAMSTED  
LORD VAUX OF HARROWDEN  
LORD HOLMES OF RICHMOND

64 Insert the following new Clause –

*“Office for Financial Regulatory Accountability*

**Creation of an Office for Financial Regulatory Accountability**

- (1) The Treasury must, as soon as practicable after the end of the period of 12 months beginning with the day on which this Act is passed, by regulations make provision to create a body corporate called the Office for Financial Regulatory Accountability (“the Office”).
- (2) It is the duty of the Office to examine and report on the performance of the FCA and the PRA.
- (3) The Office must perform its duty objectively, transparently and impartially.
- (4) The functions of the Office are to be exercised on behalf of the Crown.
- (5) Regulations under subsection (1) are subject to the affirmative procedure.”



**Member's explanatory statement**

*This amendment would require the Treasury to create an Office for Financial Regulatory Accountability, with duties to provide independent and impartial analysis to Parliament and the public of the financial regulators' performance against their statutory objectives and regulatory principles.*

65 Insert the following new Clause –

**“Charter for Financial Regulatory Accountability**

- (1) The Treasury must prepare a document, to be known as the Charter for Financial Regulatory Accountability, relating to the formulation and implementation of financial regulation.
- (2) The Charter must in particular set out –
  - (a) the Treasury's objectives in relation to financial regulation, and
  - (b) the means by which the Treasury's objectives in relation to financial regulation will be attained.
- (3) The Charter may contain such other material as the Treasury considers appropriate.
- (4) The Treasury must lay the Charter before Parliament.”

**Member's explanatory statement**

*See explanatory statement to the first new Clause amendment in the name of Lord Bridges of Headley after Clause 50.*

66 Insert the following new Clause –

**“Main duties of the Office**

- (1) The main duties of the Office are to prepare and publish reports which –
  - (a) assess both financial regulators' overall performance in terms of meeting their statutory objectives and regulatory principles under FSMA 2000, and
  - (b) provide analysis of the impact assessments of specific pieces of financial regulation, so as to determine how those regulations are contributing to meeting the regulators' objectives under FSMA 2000.
- (2) In discharging its duties under subsection (1)(b) the Office must prioritise analysing regulations that, in its opinion –
  - (a) restrict domestic competition,
  - (b) reduce the international competitiveness of financial services in the United Kingdom,
  - (c) create new compliance costs, or
  - (d) have a significant impact on business, individuals or the economy of the United Kingdom.
- (3) The Office has complete discretion in the performance of its duties.”

**Member's explanatory statement**

*See explanatory statement to the first new Clause amendment in the name of Lord Bridges of Headley after Clause 50.*

## LORD EATWELL

*As an amendment to Amendment 66*

67★ Leave out subsection (2)

***Member's explanatory statement***

*This amendment would remove the direction given to the Office in fulfilling its responsibilities under subsection (1) to avoid second guessing how it should carry out its work.*

LORD BRIDGES OF HEADLEY  
BARONESS BOWLES OF BERKHAMSTED  
LORD VAUX OF HARROWDEN  
LORD HOLMES OF RICHMOND

68 Insert the following new Clause—

**“Reports of the Office**

- (1) The Office must—
  - (a) publish each of its reports,
  - (b) lay it before Parliament, and
  - (c) send a copy of it to the Treasury.
- (2) The FCA and the PRA must publish their respective responses to the reports of the Office within 60 days, including a statement of actions they will take as a result.”

***Member's explanatory statement***

*See explanatory statement to the first new Clause amendment in the name of Lord Bridges of Headley after Clause 50.*

69 Insert the following new Clause—

**“Right to information and data**

- (1) The Office has a right of access (at any reasonable time) to all regulatory information which it may reasonably require for the purpose of the performance of its duties.
- (2) The Office is entitled to require from any person holding or accountable for any regulatory information any assistance or explanation which the Office reasonably thinks necessary for that purpose.
- (3) “Regulatory information” means information held by the FCA, the PRA, the Bank of England or any Minister of the Crown or Government department.”

***Member's explanatory statement***

*See explanatory statement to the first new Clause amendment in the name of Lord Bridges of Headley after Clause 50.*

70 Insert the following new Clause—

**“Membership of the Office**

- (1) The Office is to consist of—
  - (a) a member to chair it, appointed by the Chancellor of the Exchequer with the consent of the Treasury Committee of the House of Commons, and

**After Clause 50 - continued**

- (b) two other members appointed by the Chancellor of the Exchequer after consultation with the member appointed under paragraph (a) and with the consent of that Committee.
- (2) A person may be appointed under subsection (1)(a) or (b) only if the person has knowledge or experience likely to be relevant to the performance of the Office's duty.
- (3) An appointment under subsection (1)(a) or (b) is to be for a period of 5 years.
- (4) The Office may employ staff."

**Member's explanatory statement**

*See explanatory statement to the first new Clause amendment in the name of Lord Bridges of Headley after Clause 50.*

71 Insert the following new Clause—

**“Financial arrangements of the Office**

- (1) The Treasury may make to the Office such payments out of money provided by Parliament as the Treasury considers appropriate for the purpose of enabling the Office to meet its expenses.
- (2) Payments are to be made at such times, and subject to any such conditions, as the Treasury considers appropriate.
- (3) The Office must aim to carry out its functions efficiently and cost-effectively.”

**Member's explanatory statement**

*See explanatory statement to the first new Clause amendment in the name of Lord Bridges of Headley after Clause 50.*

LORD EATWELL

*As an amendment to Amendment 71*

72★ Leave out subsections (1) and (2) and insert—

- “(1) The Office has power to impose levies—
- (a) on authorised persons, or any class of authorised person,
  - (b) on recognised investment exchanges carrying on a regulated activity relating to a trading facility, or any class of such exchanges, or
  - (c) on authorised persons and on recognised investment exchanges carrying on a regulated activity relating to a trading facility, or on any class of such persons and exchanges,
- for the purpose of recovering the cost of operating the Office.”

**Member's explanatory statement**

*The text of this amendment is taken from the FSMA 2000 text and it would authorise the use of the levy to fund the operations of the OFRA, rather than additional taxpayer funding.*

## Schedule 8

BARONESS PENN

73 Page 160, line 17, after “service” insert “, “free cash access service””

***Member’s explanatory statement***

*This amendment is consequential on the amendment at page 160, line 29.*

74 Page 160, line 29, at end insert –

- “(3A) A “free cash access service” is a cash access service that is –
- (a) a free of charge service which enables cash to be placed on a relevant personal current account, or
  - (b) a free of charge service which enables cash to be withdrawn from a relevant personal current account.”

***Member’s explanatory statement***

*This amendment would provide a definition of “free cash access service” in new Part 8B of the Financial Services and Markets Act 2000, as inserted by paragraph 1 of Schedule 8 to the Bill.*

75 Page 161, line 4, at end insert “, “relevant personal current account””

***Member’s explanatory statement***

*This amendment is consequential on the amendment at page 161, line 15.*

76 Page 161, line 15, at end insert –

- “(3A) A “relevant personal current account” means a relevant current account held by one or more individuals for purposes outside any business, trade, craft or profession of that individual or those individuals.”

***Member’s explanatory statement***

*This amendment would provide a definition of “relevant personal current account” in new Part 8B of the Financial Services and Markets Act 2000, as inserted by paragraph 1 of Schedule 8 to the Bill.*

77 Page 161, line 37, at end insert –

- “(2A) The reference to cash access services in subsection (2) includes free cash access services.”

***Member’s explanatory statement***

*This amendment would clarify that the cash access policy statement that the Treasury must prepare under new Part 8B of the Financial Services and Markets Act 2000, as inserted by paragraph 1 of Schedule 8 to the Bill, includes policies concerning free cash access services.*

LORD HUNT OF KINGS HEATH  
BARONESS TYLER OF ENFIELD

78 Page 161, line 43, at end insert –

- “(d) funding provision for cash deposit and cash withdrawal services.”

## Schedule 8 - continued

BARONESS PENN

79 Page 164, line 7, at end insert –

“(1A) In this section references to cash access services include references to free cash access services.”

**Member’s explanatory statement**

*This amendment would ensure that the FCA’s duty, in new section 131U of the Financial Services and Markets Act 2000, as inserted by paragraph 1 of Schedule 8 to the Bill, of seeking to ensure reasonable provision of cash access services includes seeking to ensure reasonable provision of free cash access services.*

BARONESS TYLER OF ENFIELD

BARONESS KRAMER

80★ Page 167, line 47, at end insert –

**“131Z3 Banking hubs and in person banking services**

- (1) When exercising its functions under this Part, the FCA may issue a direction to a designated person, for the purpose of –
  - (a) establishing a banking hub, or
  - (b) preventing the closure of a cash access service in a specific location until alternatives have been installed.
- (2) The Treasury and the FCA must jointly undertake a review of the state of access to essential in-person banking services in the United Kingdom and prepare a report on the outcome of the review.
- (3) The report in subsection (2) must explore, but is not limited to, the benefits of –
  - (a) establishing a minimum level of access to essential in-person banking services across the United Kingdom, and
  - (b) establishing a national banking hub shared service network.
- (4) The report in subsection (2) must be laid before Parliament within one year of the day on which this Act is passed.”

**Member’s explanatory statement**

*This amendment would allow the FCA to issue directions for the purpose of providing access to in person banking services and would require the FCA and HMT to report to Parliament on in person banking services.*

**After Clause 52**

BARONESS ALTMANN  
LORD NASEBY  
BARONESS TYLER OF ENFIELD  
BARONESS CHAPMAN OF DARLINGTON

81 Insert the following new Clause—

**“Access to cash: guaranteed minimum provision for consumers**

- (1) The Treasury must, by regulations, make provision to guarantee a minimum level of access to free of charge cash access services for consumers across the United Kingdom.
- (2) The minimum level of access referred to in subsection (1) must be specified in the regulations.
- (3) Regulations under this section are subject to the affirmative procedure.”

*Member’s explanatory statement*

*This amendment aims to ensure the statutory framework established through this legislation protects free cash withdrawal and deposit facilities for consumers.*

LORD HOLMES OF RICHMOND

82 Insert the following new Clause—

**Mandatory acceptance of cash**

- (1) Any entity providing a public service directly to the public and involving payments or a charge must accept cash.
- (2) Any Third Party or private entity operating a public service on behalf of local or national Government which involves a charge or payments must accept cash.
- (3) Any private business offering for sale any goods or services directly to the public with a turnover exceeding £100,000 per year must accept cash.

83 Insert the following new Clause—

**“UK cash network: critical national infrastructure**

- (1) Within six months of the passing of this Act, the Treasury must designate the UK cash network as critical national infrastructure.
- (2) “UK cash network” means the infrastructure to make available cash access and distribution services throughout the United Kingdom by financial service providers.”

*Member’s explanatory statement*

*This amendment would require the Government to designate the UK cash infrastructure as Critical National Infrastructure.*

84 Insert the following new Clause—

**“Access to banking services**

- (1) Within one year of this Act being passed, the Treasury must prepare a policy statement to achieve the objective that every high street with more than a number of shops determined by the Treasury has a bank branch or shared banking facility of a description as set out in subsection (2).
- (2) Each bank branch or banking facility must provide services including but not limited to—
  - (a) access to cash including deposits as well as withdrawals,
  - (b) basic banking services for individuals, and
  - (c) basic banking services for small and medium-sized businesses.
- (3) The Treasury must lay the policy statement before Parliament, and must take all reasonable steps to implement it.
- (4) No bank may close a branch on a high street unless there is a shared banking facility on that high street of a description set out in subsection (2).”

***Member’s explanatory statement***

*This amendment seeks to ensure continuity of service for areas where only one bank branch remains.*

85 Insert the following new Clause—

**“Accessibility of financial services and financial products**

- (1) As soon as reasonably practicable and within three months of the passing of this Act, the Treasury must commission a review of the accessibility of financial services and products throughout the United Kingdom.
- (2) The review must consider but is not limited to—
  - (a) automatic teller machines,
  - (b) point of sale terminals,
  - (c) card payment machines, and
  - (d) internet-based and mobile platforms and products.”

***Member’s explanatory statement***

*This amendment would require the Government to commission a review into the accessibility of financial services and products throughout the UK.*

**Schedule 11**

BARONESS PENN

86 Page 257, line 7, at end insert—

- “(2A) Regulations under this paragraph may apply to partial property transfers generally or only to partial property transfers—
- (a) of a specified kind, or
  - (b) made or applying in specified circumstances.”

**Member's explanatory statement**

*This amendment would provide consistency with other parts of Schedule 11 on Central counterparties by clarifying that regulations made under paragraph 75 (restriction of partial transfers) may apply to transfers generally or only to transfers of a particular kind or in particular circumstances, as specified in the regulations.*

**Schedule 12**

BARONESS PENN

87 Page 311, line 11, at end insert –

“(5A) A liability, to the extent of its reduction by a write-down order under this section, is to be treated as extinguished unless and until revived by section 377H or 377I.”

**Member's explanatory statement**

*This amendment would clarify the effect of a write-down order under section 377A (to be inserted into FSMA 2000 by paragraph 1 of Schedule 12 to the Bill) on the treatment of liabilities reduced by the order.*

88 Page 314, line 40, leave out “termination” and insert “revocation”

**Member's explanatory statement**

*This amendment would correct a reference in the table of termination events in the context of describing when a write-down order regarding the value of an insurer's liabilities ceases to have effect.*

89 Page 324, line 30, leave out “reduced value” and insert “reduction in value”

**Member's explanatory statement**

*This amendment would provide a drafting clarification to ensure that the effect of a write-down order is more clearly reflected in this provision concerning compensation to policyholders where insurers are in financial difficulties.*

**After Clause 59**

BARONESS PENN

90 Insert the following new Clause –

**“The Ombudsman scheme**

- (1) FSMA 2000 is amended as follows.
- (2) In section 429 (Parliamentary control of statutory instruments), in subsection (2B) after paragraph (c) insert –
  - “(d) provision made under paragraph 15(3) of Schedule 17.”
- (3) Paragraph 15 of Schedule 17 (the Ombudsman scheme: power of scheme operator to charge fees) is amended as set out in subsections (4) and (5).
- (4) In sub-paragraph (1) after “respondent” insert “or other persons of a specified description”.
- (5) After sub-paragraph (2) insert –



**After Clause 59 - continued**

- “(3) The reference in sub-paragraph (1) to persons of a specified description is a reference to such descriptions of persons as may be specified in regulations made by the Treasury.
- (4) The power conferred by sub-paragraph (3) to specify descriptions of persons may not be exercised so as to provide for eligible complainants to fall within a specified description of persons.
- (5) The reference in sub-paragraph (4) to “eligible complainants” is a reference to complainants who are eligible in relation to the compulsory or voluntary jurisdiction of the ombudsman scheme (see section 226(6) and 227(7)).
- (6) Before making regulations under sub-paragraph (3) the Treasury must consult the scheme operator.””

***Member’s explanatory statement***

*This new Clause would enable the scheme operator of the Financial Ombudsman Scheme to make rules requiring persons of a description specified in regulations, other than eligible complainants, to pay fees in connection with the investigation of complaints (in addition to the existing power to impose fees on persons who are the subject of complaints).*

**After Clause 65**

BARONESS BOYCOTT  
LORD RANDALL OF UXBRIDGE  
BARONESS CHAPMAN OF DARLINGTON  
BARONESS SHEEHAN

91 Insert the following new Clause –

**“Forest risk commodities**

- (1) FSMA 2000 is amended in accordance with subsection (2).
- (2) After section 410 insert –

*“Forest risk commodities*

**410ZA Forest risk commodities**

- (1) A person must not carry on a regulated activity in the United Kingdom that may directly or indirectly support a commercial activity in relation to a forest risk commodity or a product derived from a forest risk commodity unless relevant local laws were complied with in relation to that commodity.
- (2) A person that intends to carry on a regulated activity that may directly or indirectly support a commercial activity in relation to a forest risk commodity or a product derived from a forest risk commodity must establish and implement a due diligence system in relation to that regulated activity to ensure compliance with relevant local laws.
- (3) The due diligence system referred to in subsection (2) must be in place within 24 months of the day on which the Financial Services and Markets Act 2023 is passed.

**After Clause 65 - continued**

- (4) Within the period of one year beginning with the day on which the Financial Services and Markets Act 2023 is passed, the Secretary of State must by regulations made by statutory instrument make provision about the details of the due diligence system referred to in subsection (2).
- (5) A statutory instrument containing regulations under subsection (4) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) In this section, “due diligence system” means a system for –
- (a) identifying and obtaining information about the commercial activities of any beneficiary of the regulated activity and of their group regarding the use of a forest risk commodity,
  - (b) assessing the risk that relevant local laws were not complied with, or that free, prior and informed consent was not obtained from local communities, or from indigenous people in accordance with their rights under international law, in relation to that commodity, and
  - (c) mitigating that risk.
- (7) A person that carries on a regulated activity in the United Kingdom that directly or indirectly supports a commercial activity in relation to a forest risk commodity or a product derived from a forest risk commodity is subject to –
- (a) the reporting requirements under paragraph 4 of Schedule 17 to the Environment Act 2021 (“the Environment Act”) in relation to the due diligence system required under subsection (2), and
  - (b) Part 2 of Schedule 17 to the Environment Act as though they are a person to whom Part 1 of that Schedule applies.
- (8) Terms used in this section that are defined in Schedule 17 to the Environment Act have the meanings given in that Schedule.”
- (3) In paragraph 17(1) of Schedule 17 to the Environment Act 2021 (use of forest risk commodities in commercial activity), for “and any Part 2 regulations (“relevant provisions”)” substitute “, any Part 2 regulations (“relevant provisions”) and section 410ZA of the Financial Services and Markets Act 2000”.

## LORD HOLMES OF RICHMOND

92

Insert the following new Clause –

**“Determination of applications**

- (1) FSMA 2000 is amended as follows.
- (2) In section 61 (determination of applications), after subsection (2) insert –
  - “(2ZA) In determining the application, the regulator must –
    - (a) assign a new application to a case handler within 5 working days of the application being made,
    - (b) complete an initial application review within 10 working days of allocation to a case handler, and
    - (c) allow a period of no more than 15 working days from receiving the application, to make requests for additional information.

**After Clause 65 - continued**

- (2ZB) The regulators must publish monitoring data on an annual basis regarding the following—
- (a) the proportion of cases which required escalation to sponsoring firms, including summary trend data on the reasons for escalation,
  - (b) the average time it takes to assign a case handler, and
  - (c) the average number of days it takes to complete an application in full.”

***Member’s explanatory statement***

*This amendment would add to the regulators’ authorisation KPIs within the Financial Services and Markets Act 2000 and require them to publish monitoring data related to the determination of authorisations.*

BARONESS HAYMAN  
 BARONESS ALTMANN  
 BARONESS DRAKE  
 BARONESS SHEEHAN

93 Insert the following new Clause—

**“Investment duties of personal pension providers and investment managers**

In FSMA 2000 after section 137FD insert—

**“137FDA FCA general rules: pension investment and managing investments**

- (1) The FCA may publish guidance on the consideration by FCA-regulated persons of—
  - (a) the likely consequences of any decision in the long term;
  - (b) the impacts of climate, nature and society (including impacts that FCA-regulated persons cannot manage through choosing investments) on their investments and investment strategy, and the impact of their investments and investment strategy on society, climate and nature.
  - (c) public reporting on how they have met the other requirements in this sub-section.
- (2) In this section “relevant FCA-regulated persons” means—
  - (a) managers of personal pension schemes within the meaning of an order under section 22,
  - (b) managers of stakeholder pension schemes within the meaning of such an order, and
  - (c) persons managing investments within the meaning of an order under section 22, including the activity described in paragraph 6 of schedule 2 (Managing investments).”

***Member’s explanatory statement***

*This amendment works alongside the proposed new Clause after Clause 71 tabled by Baroness Hayman to permit the Secretary of State for DWP in relation to occupational pension schemes, to issue guidance to which trustees and firms must have regard about consideration of the long term consequences of investment decisions, the impacts of risks, and the impacts of investments on society and the environment.*

**Clause 68**

LORD VAUX OF HARROWDEN  
BARONESS BOWLES OF BERKHAMSTED

94 Page 85, line 9, at end insert –

- “(8A) At least annually after the Payment Systems Regulator has imposed the requirement set out in subsection (5), it must publish a report on the impact of the requirement, including its assessment of the impact on the protection of consumers and the behaviour of payment service providers in relation to consumer protection.
- (8B) Reports published under subsection (8A) must provide at least the following information for each payment service provider subject to the requirement –
- (a) the number and value of authorised push payment (APP) scams notified to them;
  - (b) the percentage by number and value of APP scams that have been reimbursed;
  - (c) the percentage by number and value of APP scams initially rejected and subsequently appealed and the results of such appeals;
  - (d) the percentage by number and value of APP scams that have been finally rejected;
  - (e) the shortest, longest and average time from notification to decision about reimbursement.”

***Member’s explanatory statement***

*This amendment aims to ensure that the impact of the APP reimbursement requirement is assessed and reported on regularly and to ensure that consumers can see whether the rules are being applied consistently and which institutions are better and worse at reimbursing victims fairly and promptly.*

**After Clause 71**

BARONESS PENN

95 Insert the following new Clause –

**“Arrangements for the investigation of complaints**

- (1) The Financial Services Act 2012 is amended in accordance with subsections (2) and (3).
- (2) In section 84 (arrangements for the investigation of complaints) –
  - (a) omit the “and” at the end of subsection (1)(a);
  - (b) omit subsection (1)(b);
  - (c) after subsection (1) insert –
 

“(1A) The Treasury must appoint an independent person (“the investigator”) to be responsible for the conduct of investigations in accordance with the complaints scheme.”;
  - (d) omit subsection (4);
  - (e) in subsection (5), in the opening words, for “regulators” substitute “Treasury”.

**After Clause 71 - continued**

- (3) In section 87 (investigation of complaints) –
- (a) in subsection (9A), after paragraph (b) insert –
    - “(ba) for the regulator’s response under paragraph (b) to include a summary of –
      - (i) the cases in which the regulator decided not to follow any relevant recommendations, and
      - (ii) the reasons for not following those recommendations;”;
  - (b) in subsection (9B), after paragraph (e) insert –
    - “(f) such other matters as the Treasury may from time to time direct.”;
  - (c) after subsection (9B) insert –
    - “(9C) In subsection (9A)(ba) the reference to “relevant recommendations”, in relation to the regulator’s response in respect of an annual report, is a reference to –
      - (a) any recommendations to the regulator contained in that annual report, and
      - (b) any recommendations to the regulator contained in final reports relating to individual complaints given during the period to which that annual report relates.”

**Member’s explanatory statement**

*This new Clause would amend the Financial Services Act 2012 to make the Treasury, rather than the regulators, responsible for the appointment of the Complaints Commissioner and would impose additional reporting requirements.*

96

Insert the following new Clause –

**“Politically exposed persons: money laundering and terrorist financing**

- (1) The Treasury must exercise the power conferred by section 49 of the Sanctions and Anti-Money Laundering Act 2018 (power of appropriate Minister to make regulations about money laundering etc) for the purpose mentioned in subsection (2).
- (2) The purpose is to make provision amending Part 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) (“the 2017 Regulations”) (customer due diligence) so as to secure the result required by subsection (3).
- (3) The result required by this subsection is that, where a customer is a domestic PEP, or a family member or a known close associate of a domestic PEP –
  - (a) the starting point for the relevant person’s assessment under regulation 35(3) of the 2017 Regulations is that the customer presents a lower level of risk than a non-domestic PEP, and
  - (b) if no enhanced risk factors are present, the extent of enhanced customer due diligence measures to be applied in relation to that customer is less than the extent to be applied in the case of a non-domestic PEP.
- (4) In this section –
  - (a) “customer” includes a potential customer;

**After Clause 71 - continued**

- (b) “domestic PEP” means a politically exposed person entrusted with prominent public functions by the United Kingdom;
  - (c) “enhanced risk factors”, in relation to a customer who is a domestic PEP or a family member or a known close associate of that domestic PEP, mean risk factors other than the customer’s position as a domestic PEP or as a family member or known close associate of that domestic PEP;
  - (d) “non-domestic PEP” means a politically exposed person who is not a domestic PEP;
  - (e) the following terms have the same meaning as in regulation 35(12) of the 2017 Regulations –
    - “politically exposed person” or “PEP”;
    - “family member”;
    - “known close associate”.
- (5) Section 55 of the Sanctions and Anti-Money Laundering Act 2018 (Parliamentary procedure for regulations) does not apply to regulations made in compliance with the duty imposed by subsection (1).
  - (6) Regulations made in compliance with the duty imposed by subsection (1) –
    - (a) are subject to the negative procedure, and
    - (b) must be laid before Parliament in accordance with paragraph (a) before the end of 12 months starting with the day on which this section comes into force.
  - (7) The Treasury must, before the end of 6 months starting with the day on which this section comes into force, lay before Parliament a statement setting out what progress has been made towards making the regulations in compliance with the duty imposed by subsection (1).
  - (8) The duty in subsection (7) does not apply where the regulations have been laid before Parliament in accordance with subsection (6)(a) before the end of 6 months starting with the day on which this section comes into force.”

**Member’s explanatory statement**

*This new Clause would impose a duty on the Treasury to amend the money laundering regulations with the effect of ensuring that a politically exposed person who is entrusted with a prominent public function by the UK (or their family members or known close associates) should be treated as representing a lower risk than a person so entrusted by a country other than the UK, and have lesser enhanced due diligence measures applied to them.*

97

Insert the following new Clause –

**“Politically exposed persons: review of guidance**

- (1) The FCA must review its guidance on politically exposed persons (“PEPs”) given under section 139A of FSMA 2000 and in compliance with the requirements under regulation 48 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692)(“the 2017 Regulations”).
- (2) The review required under subsection (1) must include –

**After Clause 71 - continued**

- (a) an assessment of the extent to which the guidance is followed by those persons to whom it is given under regulation 48 of the 2017 Regulations, and
  - (b) in the light of that assessment, consideration as to whether the guidance remains appropriate or whether it should be revised.
- (3) The FCA must –
- (a) before the end of 3 months beginning with the day on which this section comes into force, publish an update on the FCA’s plan for the review required under subsection (1), and
  - (b) before the end of 12 months beginning with the day on which this section comes into force –
    - (i) publish the conclusions of the review, and
    - (ii) where the FCA concludes that the guidance should be revised, publish draft revised guidance for consultation.
- (4) Publication as required by subsection (3) must be in the way appearing to the FCA to be best calculated to bring the publication to the attention of persons likely to be affected by it.
- (5) The FCA is not required under this section to publish any information whose publication would be against the public interest.
- (6) In this section –
- (a) “domestic PEP” means a politically exposed person entrusted with prominent public functions by the United Kingdom;
  - (b) the following terms have the same meaning as in regulation 35(12) of the 2017 Regulations –
    - “politically exposed person” or “PEP”;
    - “family member”;
    - “known close associate”.

***Member’s explanatory statement***

*This new Clause would impose a duty on the FCA to review the guidance that the FCA produced in 2017 on the banks’ treatment of politically exposed persons, and publish draft guidance alongside the review, if the FCA concludes that the guidance should be revised.*

EARL ATTLEE

98

Insert the following new Clause –

**“Withdrawal of banking services**

- (1) When a provider of banking services in the United Kingdom decides to cease to provide banking services to an existing customer, or decides not to offer banking services to a specific prospective customer, because of one or more of the reasons specified in subsection (2), the bank is required to inform the FCA about that decision within the period of 4 weeks after the decision is taken.
- (2) The specified reasons are –
  - (a) there is a reasonable suspicion that the customer is, or has, engaged in money laundering;

**After Clause 71 - continued**

- (b) there is a record or specific instance of the customer not complying with requirements under money laundering regulations in a significant and easily-avoidable manner;
  - (c) the provider cannot accept the regulatory risk of providing banking services to the customer despite the reasons set out in paragraphs (a) and (b) not applying;
  - (d) ethical reasons;
  - (e) the customer is in the defence industry.
- (3) The FCA must maintain a record of decisions notified to it under subsection (1).”

99 Insert the following new Clause –

**“Money laundering regulations: exports of aerospace and defence goods or services outside the EU or EFTA**

- (1) Within three months of this Act being passed, the Treasury must take all reasonable steps to make regulations to amend the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) so as to secure that they do not prevent a supplier of financial services from supplying such services to a relevant person.
- (2) For the purposes of this section, a relevant person is a small or medium-sized enterprise which is engaged in the international aerospace or defence industry and who –
  - (a) receives remittances from countries outside of the European Union or the European Free Trade Association,
  - (b) is a member of a designated trade association, and
  - (c) has satisfied the Secretary of State that they are beyond reproach.
- (3) For the purposes of this section, a designated trade association is a trade association which has been designated by the Secretary of State for the purposes of this section.
- (4) Regulations under this section are subject to the affirmative procedure.”

100 Insert the following new Clause –

**“Money laundering regulations: exports to Ukraine**

- (1) Within three months of this Act being passed, the Treasury must take all reasonable steps to make regulations to amend the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) so as to secure that they do not prevent a supplier of financial services to a relevant person from supplying financial services in the relevant conditions.
- (2) For the purposes of this section, a relevant person is a small or medium-sized enterprise which exports armoured vehicles or other military equipment to Ukraine for the use of Ukrainian defence forces, or the agent of such an exporter.



**After Clause 71 - continued**

- (3) For the purposes of this section, the relevant conditions are that an export licence has been granted to a relevant person under the Export Control Act 2002 for the export of items on the United Kingdom Military List of controlled goods to Ukraine for the use of Ukrainian defence forces, and the relevant person is in the process of supporting the export of those items for which the licence has been granted.
- (4) Regulations under this section are subject to the affirmative procedure.”

LORD FORSYTH OF DRUMLEAN

101 Insert the following new Clause—

**“Review of guidance relating to politically exposed persons**

In FSMA 2000, after section 1R (duty to consider representations made by the Panels) insert—

*“Guidance relating to politically exposed persons*

**1RA Duty of FCA to review guidance on politically exposed persons**

- (1) Within six months of the passing of the Financial Services and Markets Act 2023, the FCA must review its guidance on the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) relating to politically exposed persons.
- (2) The review must consider how regulatory burdens might be reduced on politically exposed persons who present low risk of financial crime.
- (3) Following the review the FCA must lay a report, and any consequentially revised guidance, before Parliament.””

EARL ATTLEE

102 Insert the following new Clause—

**“Performance bonds for small or medium-sized enterprises**

- (1) Within six months of the passing of this Act, the Secretary of State must lay before each House of Parliament a report on the availability of performance bonds to small and medium-sized enterprises from the financial markets to cover stage payments in capital projects.
- (2) The report must, among other things, cover collateral requirements.”

LORD FORSYTH OF DRUMLEAN  
LORD BRIDGES OF HEADLEY

103 Insert the following new Clause—

**“Bank of England digital currency: legislation**

The Bank of England may not issue digital currency unless authority to do so is granted by an Act of Parliament which is passed after this Act.”

**After Clause 71 - continued**

BARONESS CHAPMAN OF DARLINGTON  
BARONESS BOWLES OF BERKHAMSTED

104 Insert the following new Clause –

**“Defined contribution and defined benefit pension funds investment review**

- (1) The Treasury must publish a review of how to incentivise defined contribution (DC) and defined benefit (DB) pension funds to invest in high-growth firms and a diverse range of long-term assets in the United Kingdom, which must include green infrastructure.
- (2) The review must consider how best to do this while protecting the safeness and soundness of pension funds.
- (3) In carrying out the review, the Treasury must consult –
  - (a) the Department for Work and Pensions,
  - (b) the Department for Business and Trade,
  - (c) the Pensions Regulator,
  - (d) the FCA,
  - (e) the PRA,
  - (f) the Pension Protection Fund,
  - (g) pension trustees, and
  - (h) relevant financial services stakeholders.
- (4) The review must consider the merits of –
  - (a) amending the definition of “specified scheme” within the meaning of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (S.I. 1996/1715) so as to increase the threshold of such DC schemes in respect of which trustees and managers are required to produce a value for members assessment under regulation 25 of those Regulations;
  - (b) adjusting the terms of reference for DB Local Government Pension Schemes (LGPS) funds to consider regional development as an investment factor;
  - (c) establishing frameworks to enable DB pension funds to invest in firms and infrastructure alongside the British Business Bank.
- (5) The Treasury must prepare a report on the outcome of the review, and lay it before Parliament within one year of the passing of this Act.”

***Member’s explanatory statement***

*This amendment would compel the Treasury to publish a review within a year of Royal Assent on how to incentivise pension fund schemes to invest in high-growth firms and green infrastructure. The review would have to consider requiring DC schemes to assess the merits of: consolidation, establishing frameworks for British Business Bank investments (so that DB pension schemes will be able to invest alongside them), and adjusting the terms of reference for Local Government Pension Schemes (so they consider regional development as an investment factor).*

LORD MOYLAN  
 BARONESS HAYTER OF KENTISH TOWN  
 LORD FORSYTH OF DRUMLEAN  
 LORD SHARKEY

105 Insert the following new Clause—

**“Politically exposed persons**

- (1) Regulation 35 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) (enhanced customer due diligence: politically exposed persons) is amended as follows.
- (2) After paragraph (14) insert—
  - “(14A) For the purposes of subsections (14B) and (14C), the relevant person must determine whether a person identified as a PEP under paragraph 1 of this Regulation is a domestic PEP.
  - (14B) Where these Regulations apply to a relevant person in relation to whom the FCA is the supervisory authority under Regulation 7, paragraphs (5) to (9) do not apply to a domestic PEP or a family member or a known close associate of a domestic PEP, unless the PEP, the family member or known close associate is engaged or becomes engaged in a higher risk business relationship with the relevant person.
  - (14C) A domestic PEP means a PEP who is or has been entrusted with a prominent public function, including those listed in paragraph (14), under the laws of the United Kingdom.
  - (14D) The FCA may issue guidance to a relevant person as to the definition and assessment of a “higher risk business relationship”. ”

***Member’s explanatory statement***

*This amendment brings the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 into alignment with the Recommendations of the Financial Action Task Force as regards the distinction to be made between domestic and foreign Politically Exposed Persons.*

BARONESS KRAMER

106 Insert the following new Clause—

**“Protection of banking reform: ring-fencing and SMCR**

- (1) Parts 1 (ring-fencing) and 4 (conduct of persons working in financial services sector) of the Financial Services (Banking Reform) Act 2013 and amendments made by them to FSMA 2000 may not be modified or revoked except by an Act of Parliament.
- (2) No change or revocation may be made by secondary legislation, including by the PRA and FCA, to—
  - (a) the requirements for ring-fenced bodies, and
  - (b) the senior managers and certification regime, or other rules for the conduct of persons working in the financial services sector,
 that departs from the principles set out in the final report of the Parliamentary Commission on Banking Standards.
- (3) For the avoidance of doubt, subsection (2) includes secondary legislation that would allow ring-fenced bodies permanently to carry out excluded activities.

**After Clause 71 - continued**

- (4) This section may not be amended except by an Act of Parliament.”

**Member’s explanatory statement**

*This amendment would prevent the Government from making substantive changes to the policy on ring-fencing and SMCR by statutory instrument, and would prevent policy from being amended in a way that departs from the report from the Parliamentary Commission on Banking Standards.*

## LORD SHARKEY

107

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)—

“mortgage prisoner” means a consumer who cannot switch to a new mortgage deal (with a new lender or with their existing lender) and includes—

- (a) all 195,000 mortgages identified in CP576 Mortgage Prisoners Review, and  
 (b) those who have a regulated mortgage contract with one of the following types of firms—  
 (i) inactive lenders: firms authorised for mortgage lending that are no longer lending;  
 (ii) unregulated entities: firms not authorised for mortgage lending and which contract with a regulated firm to undertake the regulated activity of mortgage administration; or  
 (iii) closed mortgage books within larger financial groups: a closed mortgage book that is within a larger financial group but in a different entity to an active lender;

“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 with their existing lender;

“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.

**After Clause 71 - continued**

- (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 criteria determined by the FCA.
- (5) When specifying the criteria which mortgage prisoners need to meet to access the new fixed interest rate deals required by subsection (1) the FCA should take into account the criteria used by active lenders to enable their existing customers to access product transfers and ensure that similar criteria apply in the rules required by subsection (1).
- (6) 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-Value (LTV) ratios taking into account the average 2-year and 5-year fixed rates available to existing customers of active lenders through product transfers.
- (7) The FCA must ensure any rules that it is required to make as a result of subsection (1) are made not later than six months after this Act is passed.””

***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 ensure their access to fixed rate interest deals.*

## LORD HOLMES OF RICHMOND

108

Insert the following new Clause—

**“Designated artificial intelligence officer**

- (1) The Secretary of State must by regulations provide that companies operating in the financial services sector who use artificial intelligence (“AI”) must have a designated AI officer.
- (2) The AI officer under subsection (1) has responsibility for ensuring the—
  - (a) safe,
  - (b) ethical,
  - (c) unbiased, and
  - (d) non-discriminatory
 use of AI.
- (3) The AI officer under subsection (1) also has responsibility to ensure that data used in any AI technology is unbiased.
- (4) Regulations under this section are subject to the affirmative procedure.”

***Member’s explanatory statement***

*This amendment would require firms in the financial services sector that use AI to have a designated AI officer.*

109 Insert the following new Clause—

**“Ethical use of artificial intelligence by companies in the financial sector**

- (1) The Secretary of State must by regulations provide that companies operating in the financial services sector who make use of artificial intelligence must ensure its use is in line with guidance published by the Centre for Data Ethics and Innovation.
- (2) Regulations under subsection (1) are subject to the affirmative procedure.”

***Member’s explanatory statement***

*This amendment would require firms operating in financial services to ensure that their use of AI is ethical and in line with guidance from the CDEI.*

110 Insert the following new Clause—

**“Access to digital financial services: review**

- (1) Within three months of the passing of this Act, the Treasury must commission a review of access to digital financial services.
- (2) The review must consider, but is not limited to—
  - (a) the levels of access that individuals and small and medium-sized enterprises have in relation to—
    - (i) digital payments, and
    - (ii) mobile and internet applications and platforms;
  - (b) the level of digital skills needed to enable digital financial services transactions to be undertaken;
  - (c) the levels of broadband and mobile connectivity needed to support digital financial services transactions.
- (3) The review must consider the barriers to individuals and small and medium-sized enterprises in accessing digital financial services and publish recommendations on how these will be addressed.”

***Member’s explanatory statement***

*This amendment would require the Government to commission a review into access to digital financial services. It would follow on from and adopt similar but not identical aims to the Access to Cash Review, published in 2019.*

111 Insert the following new Clause—

**“Minimum Banking Service**

Where a location with a population of more than 10,000 people has one remaining banking branch which does not offer a full banking service, including for business customers, and which serves less than 20 per cent of that population, a shared banking hub can be opened.”

**After Clause 71 - continued**

BARONESS BENNETT OF MANOR CASTLE  
LORD SIKKA

112 Insert the following new Clause –

**“Size of the UK financial services and markets sector**

- (1) Within 12 months of this Act coming into force, the Secretary of State must publish a report assessing the optimum size of the financial services and markets sector in the United Kingdom.
- (2) The assessment in subsection (1) must include the following –
  - (a) the skills and availability of the labour force,
  - (b) the impacts of the sector on the availability of capital for other sectors of the economy,
  - (c) the role of the sector in supporting the broader economy,
  - (d) costs to the public and private sector of instability in the financial sector and the risk of collapse, and
  - (e) global trends which are likely to impact UK financial services and markets.”

BARONESS HAYMAN  
BARONESS SHEEHAN  
BARONESS ALTMANN  
BARONESS WHEATCROFT

113 Insert the following new Clause –

**“Investment duties of occupational pension scheme trustees**

- (1) Section 36 of the Pensions Act 1995 (Choosing investments) is amended as follows.
- (2) In subsection (1) for “subsections (3) and (4)” substitute “subsections (1B), (1C), (3) and (4)”
- (3) After sub-section (1A), add –
  - “(1B) The assets of the scheme must be invested –
    - (a) in the best interests of members and beneficiaries, and
    - (b) in the case of a potential conflict of interest, in the sole interest of members and beneficiaries.
  - (1C) In complying with requirements imposed by this section and by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Secretary of State on the matters listed in subsection (1D).
  - (1D) The Secretary of State may prepare guidance on the consideration by trustees and managers of –
    - (a) the likely consequences of any decision in the long term;
    - (b) the impacts of climate, nature and society (including impacts that the trustees cannot manage through choosing investments) on their investments and investment strategy, and the impact of their investments and investment strategy on society, climate and nature.””

**Member's explanatory statement**

*This amendment works alongside the proposed new Clause after Clause 65 tabled by Baroness Hayman to permit the Secretary of State for DWP in relation to occupational pension schemes, to issue guidance to which trustees and firms must have regard about consideration of the long term consequences of investment decisions, the impacts of risks, and the impacts of investments on society and the environment.*

BARONESS WHEATCROFT  
 BARONESS ALTMANN  
 BARONESS NORTHOVER  
 BARONESS HAYMAN

114★

Insert the following new Clause –

**“Sustainability disclosure requirements**

- (1) The FCA may make general rules requiring relevant FCA-regulated persons to make sustainability disclosures in respect of their firms.
- (2) The PRA may make general rules requiring relevant PRA-regulated persons to make sustainability disclosures in respect of their firms.
- (3) A Minister of the Crown may make regulations requiring other relevant persons to make sustainability disclosures in respect of their schemes.
- (4) Sustainability disclosures by relevant persons may include information on –
  - (a) their governance of sustainability-related risks, opportunities and impacts;
  - (b) their assessment of the actual and potential sustainability-related risks, opportunities and impacts for their firm's or scheme's operations, investments, loans and strategy;
  - (c) the processes used to identify, assess, and manage sustainability-related risks, opportunities, and impacts;
  - (d) the metrics and targets used to assess, manage and report on sustainability-related risks, opportunities and impacts, including the proportion of the firm's or scheme's revenue, investments and loans which are sustainable.
- (5) In this section –
  - (a) “relevant FCA-regulated persons” means –
    - (i) issuers of securities admitted to the official list,
    - (ii) managers of personal pension schemes within the meaning of an order under section 22 of FSMA 2000 (regulated activities),
    - (iii) managers of stakeholder pension schemes within the meaning of such an order, or
    - (iv) persons managing investments within the meaning of such an order, including the activity described in paragraph 6 of Schedule 2 to that Act (managing investments);
  - (b) “relevant PRA-regulated persons” means –
    - (i) persons accepting deposits within the meaning of an order under section 22 of FSMA 2000, or
    - (ii) persons effecting or carrying out a contract of insurance within the meaning of such an order;
  - (c) “other relevant persons” means –



**After Clause 71 - continued**

- (i) trustees of occupational pension schemes within the meaning of section 1 of the Pension Schemes Act 1993 (categories of pension schemes) with £1bn or more in assets, other than public service pension schemes;
- (ii) an administering authority of the local government pension scheme.

(6) Regulations under this section are subject to the affirmative procedure.”

**Member’s explanatory statement**

*This amendment permits the FCA, the PRA and Ministers to make rules and regulations requiring sustainability-related disclosures for listed firms, fund managers and personal pension providers, banks and insurers, and local government pension schemes and occupational pension schemes other than public service pension schemes respectively.*

BARONESS BOWLES OF BERKHAMSTED

115★ Insert the following new Clause—

**“Competitiveness and investment**

In Commission Delegated Regulation (EU) 2017/565 (Information on costs and associated charges), at end of Article 50(2) insert—

- “(c) For these purposes, investment firms are not required to aggregate any costs and charges relating to shares of any investment company admitted to trading on a UK Regulated Market.””

**Member’s explanatory statement**

*This would establish a more level playing field between listed companies and listed investment companies which perform essentially the same investment function and resolves issues caused by amalgamating investee company costs with fund management costs.*

**Clause 76**

LORD SHARKEY

116 Page 89, line 39, at end insert—

“(5A) Any provision that may be made by regulations under this Act subject to the affirmative procedure may by resolution of either House be made according to the “super-affirmative procedure”.”

**Member’s explanatory statement**

*This amendment would enable Parliament to insist on the use of the super-affirmative procedure to provide increased scrutiny of statutory instruments.*

**After Clause 76**

LORD SHARKEY

117 Insert the following new Clause—

**“Super-affirmative procedure**

(1) For the purposes of this Act, the “super-affirmative procedure” is as follows.

**After Clause 76 - continued**

- (2) The Treasury must lay before Parliament –
  - (a) a draft of the regulations, and
  - (b) a document which explains the draft regulations.
- (3) Where a draft of the regulations is laid before Parliament under subsection (2), no statutory instrument containing the regulations is to be laid before Parliament until after the expiry of the 30-day period.
- (4) The Treasury must request a committee of either House whose remit includes Treasury matters, economic affairs, or industry and regulatory matters to report on the draft regulations within the 30-day period.
- (5) In preparing a draft statutory instrument containing the regulations, the Treasury must take account of –
  - (a) any representations,
  - (b) any resolution of either House of Parliament, and
  - (c) any recommendations of a committee under subsection (4), made within the 30-day period with regard to the draft regulations.
- (6) If, after the 30-day period, the Treasury wishes to make regulations in the terms of the draft or a revised draft, the Treasury must lay before Parliament a statement –
  - (a) stating whether any representations, resolutions or recommendations were made under subsection (5),
  - (b) giving details of any representations, resolutions or recommendations so made, and
  - (c) explaining any changes made in any revised draft of the regulations.
- (7) The Treasury may make a statutory instrument containing the regulations (whether or not revised) if, after the laying of the statement required under subsection (6), a draft of the instrument is laid before and approved by a resolution of each House of Parliament.
- (8) In this section, references to “the 30-day period” in relation to any draft regulations is to the period of 30 days beginning with the day on which the original draft regulations were laid before Parliament.
- (9) For the purposes of subsection (8) no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.”

***Member’s explanatory statement***

*This amendment would enable Parliament to insist on the use of the super-affirmative procedure to provide increased scrutiny of statutory instruments.*

**Clause 78**

BARONESS PENN

118

Page 90, line 16, at end insert –

“(aa) Part 5 of Schedule 2, and section 2 so far as relating to that Part;”

***Member's explanatory statement***

*This amendment would bring the amendments made in Part 5 of Schedule 2 to the Bill (which relate to the third country CCP run-off regime) into force on the day the Act is passed.*

**119**

Page 90, line 20, at end insert—

- “(e) section (Politically exposed persons: money laundering and terrorist financing);
- (f) section (Politically exposed persons: review of guidance).”

***Member's explanatory statement***

*This amendment would ensure that the new Clauses on politically exposed persons to be inserted after Clause 71 would come into force on the day the Act is passed.*

# Financial Services and Markets Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*2 June 2023*

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