

Financial Services and Markets Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

Schedule 2

BARONESS WORTHINGTON

Page 124, line 12, leave out paragraph 45

Member's explanatory statement

These amendments maintain the duty for FCA to set position limits on commodity derivatives and over the counter equivalents, and the associated powers to request information and intervene, whilst onshoring the power to set limits which are appropriate for the UK.

Page 125, line 18, leave out paragraph 46 and insert—

“46 In regulation 16 (FCA duty to establish position limits) omit paragraphs (3) and (5).”

Member's explanatory statement

These amendments maintain the duty for FCA to set position limits on commodity derivatives and over the counter equivalents, and the associated powers to request information and intervene, whilst onshoring the power to set limits which are appropriate for the UK.

Page 125, line 33, leave out paragraph 47

Member's explanatory statement

These amendments maintain the duty for FCA to set position limits on commodity derivatives and over the counter equivalents, and the associated powers to request information and intervene, whilst onshoring the power to set limits which are appropriate for the UK.

Page 126, line 4, leave out paragraph 48 and insert—

“48 In regulation 28 (FCA power to intervene) in paragraph (1), omit “or the markets in financial instruments regulation”.”

Member's explanatory statement

These amendments maintain the duty for FCA to set position limits on commodity derivatives and over the counter equivalents, and the associated powers to request information and intervene, whilst onshoring the power to set limits which are appropriate for the UK.

Page 126, line 26, leave out sub-paragraphs (i) and (ii) and insert –
 “(i) paragraphs (1)(c) and (5) of regulation 17;”

Member’s explanatory statement

These amendments maintain the duty for FCA to set position limits on commodity derivatives and over the counter equivalents, and the associated powers to request information and intervene, whilst onshoring the power to set limits which are appropriate for the UK.

Clause 8

LORD STEVENSON OF BALMACARA

Page 8, line 13, at end insert –

- “(c) financial products made under a bill of sale to which any of the following apply –
- (i) the Bills of Sale Act 1878;
 - (ii) the Bills of Sale Act (1878) Amendment Act 1882;
 - (iii) the Bills of Sale Act 1890;
 - (iv) the Bills of Sale Act 1891.”

After Clause 26

LORD DAVIES OF BRIXTON

Insert the following new Clause –

“FCA to have regard to the mental health of consumers’ protection objective

In section 1C of FSMA 2000 (the consumer protection objective) in subsection (2) at the end insert –

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

Clause 41

LORD TUNNICLIFFE

Page 57, line 36, at end insert –

- “(12) The FCA Cost Benefit Analysis Panel must –
- (a) include at least three individuals with experience and expertise in the field of economic crime, with one drawn from the public, private and third sectors respectively, and
 - (b) consider any economic crime risks posed by proposed rules.”

Member’s explanatory statement

This amendment would require the FCA’s Cost Benefit Analysis Panel to include experts in economic crime, and consider this as part of the FCA’s rule-making.

Page 58, line 32, at end insert –

- “(13) The PRA Cost Benefit Analysis Panel must –
- (a) include at least three individuals with experience and expertise in the field of economic crime, with one drawn from the public, private and third sectors respectively, and
 - (b) consider any economic crime risks posed by proposed rules.”

Member's explanatory statement

This amendment would require the PRA's Cost Benefit Analysis Panel to include experts in economic crime, and consider this as part of the PRA's rule-making.

After Clause 52

BARONESS TWYXCROSS

Insert the following new Clause—

“Public consultation on cash provision

Within the period of 12 months beginning with the day on which this Act is passed, the FCA must have issued and responded to a UK-wide consultation on regional experience of cash provision.”

After Clause 65LORD RANDALL OF UXBRIDGE
LORD TUNNICLIFFE
BARONESS BOYCOTT
BARONESS SHEEHAN

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) 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.

After Clause 65 - continued

- (4) 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 sub-paragraph (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.
- (5) 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”.”

After Clause 71

LORD HOLMES OF RICHMOND

Insert the following new Clause—

“Digital identification

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

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

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

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

“scalable” means capable of national deployment.”

After Clause 71 - continued

Insert the following new Clause—

“SME rights of action for breaches of FCA handbook

- (1) The Secretary of State must by regulations make provision to allow small and medium-sized enterprises rights of action for breaches of the FCA handbook.
- (2) Regulations under subsection (1) are subject to the affirmative procedure.
- (3) The Secretary of State must lay draft regulations before each House of Parliament for the purposes of subsection (1) within the period of three months beginning with the day on which this Act is passed.”

Member’s explanatory statement

This amendment would create a right of action for SMEs for breaches of the FCA handbook which is currently not available to them.

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.

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-discriminatoryuse 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 to have a designated AI officer.

Insert the following new Clause—

“Regional mutual banks

- (1) The Secretary of State must report to each House of Parliament, within three months of the day on which this Act is passed, on existing barriers to establishing regional mutual banks in the United Kingdom.
- (2) The report must consider—
 - (a) current capital adequacy requirements,
 - (b) other limiting features of the current regime,
 - (c) regional mutual bank structures in jurisdictions outside the United Kingdom and the adoption and adaptation to the United Kingdom of best practice, and
 - (d) the use of dormant assets as seed capital for the establishment of such regional mutual banks.”

Member’s explanatory statement

This amendment would require the Secretary of State to report to Parliament on barriers facing the establishment of regional mutual banks in the UK.

EARL ATTLEE

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.
- (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.”

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19 January 2023
