

Financial Services and Markets Bill

AMENDMENTS

TO BE MOVED

IN GRAND COMMITTEE

[Supplementary to the Marshalled List]

Amendment
No.

Clause 25

BARONESS BENNETT OF MANOR CASTLE

69A★

Page 39, line 13, at end insert –

“(ca) the need for companies to operate within planetary limits, including in relation to the climate, biosphere integrity, novel entities and biochemical flows;”

After Clause 52

LORD SIKKA

189A★

Insert the following new Clause –

“Access to physical banking services

- (1) The section applies to the closure of any physical branch by a licenced deposit-taker regulated by the FCA.
- (2) The FCA must ensure that, at least six calendar months before the intended closure of a physical branch, the deposit-taker has given a written notice to all affected customers of its intention to close that branch.
- (3) The notice must be accompanied by a statement setting out the financial and non-financial position of the branch and reasons for its possible closure.
- (4) Within 28 days of the receipt of a valid notice, customers may lodge their objections, if any, with the FCA.
- (5) At least three months before the intended closure date, under the supervision of the FCA, customers of the deposit-taker must vote on the proposal to close a physical branch.
- (6) The closure must be approved by the FCA, and in doing so it must provide evidence showing that after the closure the local community’s access to physical banking services is not impaired.
- (7) The cost of the steps described in subsections (2) to (6), including the provision of any alternative form of physical banking services, must be met by a levy upon all deposit-taking institutions.”

After Clause 65

BARONESS NOAKES

201A★ Insert the following new Clause –

“Financial Ombudsman Service

- (1) FSMA 2000 is amended as follows.
- (2) After section 229 insert –

“229A Power of FCA to require Financial Ombudsman Service to refrain from specified action

 - (1) Where the first, second and third conditions are met, the FCA may give a direction under this section to the Financial Ombudsman Service.
 - (2) The first condition is that the Financial Ombudsman Service is proposing to exercise any of its powers in relation to the determination of a complaint.
 - (3) The second condition is that the FCA is of the opinion that the exercise of the power in the manner proposed may have implications beyond the specifics of the complaint in question.
 - (4) The third condition is that the FCA is of the opinion that the giving of the direction is necessary in order to avoid the possible consequence described in subsection (3).
 - (5) A direction under this section is a direction requiring the Financial Ombudsman Service not to exercise the power or not to exercise it in a specified manner.
 - (6) The FCA must consult the Financial Ombudsman Service before giving a direction under this section.”
- (3) In paragraph 15(1) of Schedule 17 (fees) after “respondent” insert “or relevant party”.”

Member’s explanatory statement

This amendment gives power to the FCA to overrule a decision of the FOS where this would have implications which would affect the FCA’s ability to regulate effectively and to allow the FOS to make persons other than the complainant make a payment towards the costs of a case.

After Clause 71

BARONESS ALTMANN

241A★ Insert the following new Clause –

“Climate and nature sustainable infrastructure and growth partnerships

- (1) The FCA must make rules permitting relevant persons to join together with other relevant persons to jointly manage investments within the meaning of an order under section 22 of FSMA 2000 (regulated activities), including the activity described in paragraph 6 of Schedule 2 (managing investments), for specific purposes, in the form of the establishment and management of climate and nature sustainable infrastructure and growth partnerships.

After Clause 71 - continued

- (2) The rules under subsection (1) must ensure that the procedure for authorisation for such partnerships, permission to carry on regulated activities in relation to such partnerships, and the rules regulating the performance of regulated activities of such partnerships, are subject to regulatory burdens arising from the FCA which are reduced relative to those in place for the management of other investments within the meaning of such an order.
- (3) The specific purposes referred to in subsection (1) are—
 - (a) facilitating compliance with section 1 of the Climate Change Act 2008 (UK net zero emissions target);
 - (b) adapting to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008 (report on impact of climate change);
 - (c) facilitating compliance with section 5 of the Environment Act 2021 (environmental targets);
 - (d) contributing to the conservation and enhancement of the natural environment;
 - (e) without detriment to the purposes in paragraphs (a) to (d), boosting sustainable long-term growth.
- (4) The rules must stipulate that climate and nature sustainable infrastructure and growth partnerships must only accept contributions from current and former beneficiaries of, and clients of, relevant persons.
- (5) The rules must stipulate that the chair, other directors and the first chief executive officer of climate and nature sustainable infrastructure and growth partnerships must be solely appointed by relevant persons.
- (6) Relevant persons are—
 - (a) trustees of occupational pension schemes within the meaning of section 1 of the Pension Schemes Act 1993 with £1 billion or more in assets other than public service pension schemes,
 - (b) administering authorities of local government pension schemes, and
 - (c) managers of personal pension schemes within the meaning of an order under section 22 of FSMA 2000.”

Member’s explanatory statement

This amendment proposes to make it easier for personal and LGPS pension schemes, and occupational pension schemes other than public service pension schemes, to jointly establish fund managers for the specific purpose of investing for climate and nature protection via a lighter-touch regime, as long as those funds are only open to beneficiaries and clients of those schemes and the managers are appointed by participating schemes. This is intended to unlock institutional funding in climate and nature projects by schemes which do not otherwise have the capacity to invest.

BARONESS FOX OF BUCKLEY

241B★ Insert the following new Clause—

“Freedom of expression protections for payment service users

- (1) Within six months of this Act being passed, the Secretary of State must, by regulations, make provision preventing payment service providers from refusing or discontinuing access to payment services on account of a person exercising their freedom of expression.
- (2) In this section—
 - a “payment service provider” and a “payment service” have the meanings given by regulation 2(1) of the Payment Services Regulations 2017 (S.I. 2017/752), and
 - a “person” means a payment service user as defined by regulation 2(1) of those Regulations.”

BARONESS KRAMER

241C★ Insert the following new Clause—

“Protection of banking reform: ring-fencing

- (1) Part 1 of the Financial Services (Banking Reform) Act 2013 (ring-fencing) and amendments made by it 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 or by the PRA to the requirements for ring-fenced bodies that departs from the principles set out in the final report of the Parliamentary Commission on Banking Standards.
- (3) This section may not be amended except by an Act of Parliament.”

Member’s explanatory statement

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

241D★ Insert the following new Clause—

“Protection of banking reform: SMCR

- (1) Part 4 of the Financial Services (Banking Reform) Act 2013 (conduct of persons working in financial services sector) and amendments made by it to FSMA 2000 may not be modified or revoked except by an Act of Parliament.
- (2) No change or revocation may be made by regulation or by the FCA to the senior managers and certification regime, or other rules for the conduct of persons working in the financial services sector, that depart from the principles set out in the final report of the Parliamentary Commission on Banking Standards.
- (3) This section may not be amended except by an Act of Parliament.”

Member's explanatory statement

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

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24 January 2023
