

Financial Services and Markets Bill

TENTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 10th January 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.

After Clause 71

BARONESS WORTHINGTON
BARONESS SHEEHAN

241FC Insert the following new Clause –

“Climate and nature offsets

In Schedule 2 to FSMA 2000 (regulated activities) after paragraph 9 insert –

“Climate and nature offsets

(9ZA) Selling, or offering or agreeing to sell, climate and nature offsets.””

After Clause 71 - continued

LORD FORSYTH OF DRUMLEAN

241FD 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.”

Clause 76

LORD SHARKEY

241G Page 89, line 32, at end insert—

“(3A) For each statutory instrument laid before Parliament in draft under this Act, if each House of Parliament passes a resolution that the regulations have effect with a specified amendment, the regulations have effect as amended.”

Member’s explanatory statement

This would allow affirmative SIs generated by this Act to be amended by agreement of both Houses.

BARONESS PENN

242 Page 89, line 36, after “Act” insert “, or under any other enactment,”

Member’s explanatory statement

This amendment and the amendment at page 89, line 37, would allow any provision that may be made by regulations subject to the negative procedure under this Act, or under any other enactment, to be made in regulations under this Act subject to the affirmative procedure.

243 Page 89, line 37, after “regulations” insert “, made under or by virtue of this Act,”

Member’s explanatory statement

See the explanatory statement for the amendment at page 89, line 36.

LORD SHARKEY
BARONESS NOAKES

243A Page 89, line 38, 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
BARONESS NOAKES

243B Insert the following new Clause –

“Super-affirmative procedure

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

244 Page 90, line 30, at beginning insert “Subject to subsection (3A),”

Member’s explanatory statement

This amendment ensures that retained EU law will cease to have effect no later than 31 December 2026.

245 Page 90, line 31, at end insert –

“(3A) Except to the extent that section 1 has already come into force, section 1 comes into force on 31 December 2026.”

Member’s explanatory statement

This amendment ensures that retained EU law will cease to have effect no later than 31 December 2026.

VISCOUNT TRENCHARD

BARONESS LAWLOR

246 Page 90, line 32, at end insert –

“(4A) The Treasury must make regulations under subsection (3) so as to bring section 1 and Schedule 1 into force for the purposes of revoking, within the period of two months beginning with the day on which this Act is passed, the provisions mentioned in that Schedule connected with Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers.”

Member’s explanatory statement

This amendment ensures that the retained EU Law which replaced the Alternative Investment Fund Managers Directive and associated legislation will cease to have effect no later than two months after the passage of the Bill.

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21 March 2023
