

Financial Services and Markets Bill

AMENDMENTS
TO BE MOVED
ON REPORT

After Clause 4

BARONESS NOAKES

Insert the following new Clause—

“Consultation

- (1) Before making regulations under section 3 or 4 the Treasury must consult persons who may be affected by the regulations unless—
 - (a) subsection (2) applies, or
 - (b) the regulations contain a statement that, by reason of urgency, it is necessary to make the regulations without carrying out consultation.
- (2) Consultation is not required for regulations that replace legislation referred to in Schedule 1 if the Treasury consider that—
 - (a) no material changes are made to the legislation that is being replaced, or
 - (b) any changes that are made reduce a regulatory burden.
- (3) “Regulatory burden” has the meaning given in subsection (6) of section 6.”

After Clause 65

BARONESS BOYCOTT
LORD RANDALL OF UXBRIDGE
BARONESS CHAPMAN OF DARLINGTON
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

After Clause 65 - continued

- (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.
 - (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”.

After Clause 71

BARONESS KRAMER

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.
- (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

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—

After Clause 71 - continued

- (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.

- (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.

Clause 76

LORD SHARKEY

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

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, 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.

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24 May 2023
