

Financial Services and Markets Bill

AMENDMENT
TO BE MOVED
ON REPORT

After Clause 23

LORD TYRIE

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 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.
- (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.

After Clause 23 - continued

- (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.”

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31 May 2023
