

Bank Resolution (Recapitalisation) Bill [HL]

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

Clause 1

BARONESS BOWLES OF BERKHAMSTED

Clause 1, page 1, line 8, after “institution” insert “that is not required to hold Minimum Requirement for Own Funds and Eligible Liabilities (MREL) or is below a level of total assets of value of £15 billion index linked from 1 January 2016”

Member's explanatory statement

This amendment seeks to ensure that the bill applies primarily to smaller banks, using Minimum Requirement for Own Funds and Eligible Liabilities (MREL) as a definition.

BARONESS NOAKES

Clause 1, page 1, line 18, leave out lines 18 to 20

Member's explanatory statement

This amendment probes the nature of “other expenses” and the persons other than the Bank which could incur expenses.

BARONESS NOAKES

Clause 1, page 1, line 20, at end insert –

“(2A) The Bank may not exercise the power in subsection (1) more than once in respect of the same financial institution without the consent of the Treasury.”

Member's explanatory statement

This amendment requires the Bank to obtain Treasury consent before it can require the FSCS to make a second (or subsequent) recapitalisation payment in respect of an individual bank.

BARONESS NOAKES

Clause 1, page 1, line 20, at end insert –

- “(2A) The Bank may not exercise the power in subsection (1) in respect of a financial institution which meets the condition in subsection (2B) without the consent of the Treasury.
- (2B) The condition is that the financial institution is a subsidiary of a company based outside the United Kingdom.”

Member's explanatory statement

This amendment requires the Bank of England to obtain Treasury consent before it can require the FSCS to make a capitalisation payment in respect of a bank which is a subsidiary of an overseas body.

BARONESS NOAKES

Clause 1, page 1, line 20, at end insert –

- “(2A) The Bank may not exercise the power in subsection (1) in respect of a financial institution which meets the condition in subsection (2B) without the consent of the Treasury.
- (2B) The condition is that the financial institution has been required by the Bank under subsection (4) of section 3A of the Banking Act 2009 to hold an amount of bail-in liabilities.”

Member's explanatory statement

This amendment requires the Bank of England to obtain Treasury consent before it can require the FSCS to make a capitalisation payment in respect of a bank which had not satisfied the Bank's suitability for the use of the insolvency procedure in resolution.

BARONESS NOAKES

Clause 1, page 1, line 20, at end insert –

- “(2A) The Bank may not exercise the power in subsection (1) without the consent of the Treasury.”

Member's explanatory statement

This amendment requires the Bank of England to obtain Treasury consent before it can require the FSCS to make a capitalisation payment.

BARONESS BOWLES OF BERKHAMSTED

Clause 1, page 1, line 20, at end insert –

- “(2A) The Bank of England may only exercise the power in subsection (1) if it assesses that the use of the power would support the public interest, which may include but need not be limited by –
- (a) supporting market competitiveness, or
 - (b) retaining or growing smaller banks.”

BARONESS NOAKES

Clause 1, page 2, line 3, at end insert –

“214F Recapitalisation payments: reporting

- (1) The Bank must report to the Chancellor of the Exchequer about the exercise of the power in section 214E.
- (2) The report must comply with any requirements as to content specified by the Treasury.
- (3) The report must be made as soon as is practicable after the use of the power.
- (4) The Treasury must lay a copy of the report before Parliament.”

Member's explanatory statement

This amendment ensures that that information about the use of a recapitalisation payment is made to the Treasury and to Parliament.

BARONESS BOWLES OF BERKHAMSTED

Clause 1, page 2, line 3, at end insert –

- “(6) Use of the Financial Services Compensation Scheme for bank recapitalisation and associated costs must not reduce bank depositors’ entitlement to the full amount of Deposit Guarantee Insurance.”

Clause 4

BARONESS NOAKES

Clause 4, page 3, line 15, at end insert –

“(2A) In section 4 (special resolution objectives), at the end of subsection (9) insert –

- “(9A) Objective 8, which applies in any case in which the Bank of England uses the power in section 214E of the Financial Services and Markets Act (recapitalisation payments), is to ensure that the costs which are born through the Financial Services Compensation Scheme do not exceed those

which would have been born if the bank insolvency procedure had been used.””

Member's explanatory statement

This amendment adds to the special resolution objectives so that the Bank of England has to consider the net costs recouped via the FSCS if it uses the recapitalisation power with the counterfactual of the use of the bank insolvency procedure.

BARONESS NOAKES

Clause 4, page 3, line 15, at end insert –

“(2A) In section 5 (code of practice), at the end of subsection (1) insert “and –

- (iv) the bank recapitalisation power under section 214E of the Financial Services and Markets Act 2000.””

Member's explanatory statement

This amendment requires the Treasury to include the use of the recapitalisation power created in this Bill in the Code of Practice issued in respect of the special resolution regime.

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