

Bank Resolution (Recapitalisation) Bill [HL]

RUNNING LIST OF ALL AMENDMENTS ON REPORT

*Tabled up to and including
16 October 2024*

[Amendments marked ★ are new or have been altered]

Clause 1

LORD SIKKA

★ Clause 1, page 1, line 22, at end insert –

“(3A) Before exercising the power in subsection (1), the Bank and the scheme manager must assess whether they consider that there should be a clawback of executive pay and bonuses from the previous 12 months.”

Member's explanatory statement

This amendment seeks to address potential moral hazards through requiring the Bank and scheme manager to take directors' pay and bonuses into consideration when a recapitalisation payment is made.

LORD VAUX OF HARROWDEN
BARONESS BOWLES OF BERKHAMSTED
BARONESS NOAKES
BARONESS VERE OF NORBITON

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

- “(6) When the Bank exercises its power in subsection (1), the Bank must make a report to the Chancellor of the Exchequer within 28 days of the date of any recapitalisation payment being made.
- (7) The report must comply with any requirements specified by the Treasury, but must include –
- (a) the reasons why the Bank decided to make a recapitalisation payment in preference to allowing the financial institution to go into insolvency;

- (b) a breakdown of the costs referred to in subsection (2);
 - (c) a comparison of the expected recapitalisation payment or payments that will be paid by the Financial Services Compensation Scheme, compared with the expected costs to the Scheme in an insolvency process.
- (8) The Bank must make a further report to the Chancellor of the Exchequer within three months of the date of the sale of the institution to a private sector purchaser, or the sale, closure or winding up of the institution or bridge bank, providing such information as the Treasury may require, including the breakdown of the actual recapitalisation payment or payments and the reasons for any differences to the expected costs referred to in subsection (7)(b).
- (9) The Chancellor of the Exchequer must lay a copy of each report under subsection (7) or (8) before Parliament.”

Member's explanatory statement

This amendment is intended to ensure that the reasons for decisions of the Bank to follow a resolution process in preference to an insolvency process are explained and the explanation laid before Parliament, both at the time of the decision and once the resolution process has been completed, and that the costs can be compared to what would have been expected if the institution had been placed into insolvency.

BARONESS NOAKES
BARONESS BOWLES OF BERKHAMSTED
LORD VAUX OF HARROWDEN

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

“214EA Engagement with Parliamentary Committees

- (1) If the Bank of England exercises the power under section 214E it must, as soon as reasonably practicable, notify in writing the chair of each relevant Parliamentary Committee that the power has been exercised.
- (2) Relevant Parliamentary Committees are –
 - (a) the Treasury Committee in the House of Commons, and
 - (b) the Financial Services Regulation Committee in the House of Lords.
- (3) References to the committees referred to in subsection (2) –
 - (a) if the name of the Committee is changed, are references to that Committee by its new name, and
 - (b) if the function of that Committee (or substantially corresponding functions) become functions of a different Committee of the House of Commons or the House of Lords, are to be treated as references to the Committee by which the functions are exercisable.
- (4) Any question arising under subsection (3) is to be determined by the Speaker of the House of Commons in relation to committees of the House of

Commons and by the Senior Deputy Speaker of the House of Lords in relation to committees of the House of Lords.”

Member's explanatory statement

This amendment provides that the Bank of England must notify the Treasury Committee of the House of Commons and the Financial Services Regulation Committee in the House of Lords if the recapitalisation power is used.

After Clause 2

LORD VAUX OF HARROWDEN
BARONESS BOWLES OF BERKHAMSTED
BARONESS NOAKES
BARONESS VERE OF NORBITON

After Clause 2, insert the following new Clause –

“Treatment of recapitalisation payments on a winding up

- (1) In section 215 of the Financial Services and Markets Act 2000 (rights of the scheme in insolvency), after subsection (2A), insert –
 - “(2AB) Any recapitalisation payment made by the scheme manager under section 214E in respect of a bank, building society or investment firm is to be treated, in the event of such bank, building society or investment firm or associated bridge bank being wound up, as a debt due to the scheme manager from that bank, building society or (as the case may be) investment firm.”
- (2) In Schedule 6 of the Insolvency Act 1986 (categories of preferential debts), after paragraph 15AA, insert –
 - “15AB Any debt owed by the debtor to the scheme manager of the Financial Services Compensation Scheme under section 215(2AB) of the Financial Services and Markets Act 2000.””

Member's explanatory statement

This amendment creates a mechanism that would allow the FSCS to recover its money in preference to creditors who would otherwise have no right to be bailed out. This mirrors the existing treatment of stabilisation payments made by the FSCS in Clause 215 (2A) of FSMA 2000.

Clause 4

BARONESS NOAKES
BARONESS BOWLES OF BERKHAMSTED
LORD VAUX OF HARROWDEN

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

“(2A) In section 4 (special resolution objectives), after 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 2000 (recapitalisation payments), is to ensure that the costs which are borne through the Financial Services Compensation Scheme are minimised.””

Member's explanatory statement

This amendment adds to the special resolution objectives so that the Bank of England has to consider minimising the net costs recouped from the banking sector via the FSCS.

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