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Report Stage: Thursday 1 December 2022

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## Financial Services and Markets Bill, As Amended (Amendment Paper)

This document lists all amendments tabled to the Financial Services and Markets Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New Amendments.

New Amendments: 7 to 18 and NC17 to NC21

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The Chancellor of the Exchequer

NC17

★ To move the following Clause—

**“Reporting requirements**

- (1) FSMA 2000 is amended as follows.
- (2) After paragraph 11 of Schedule 1ZA insert—

*“Other reports*

- 11A (1) The Treasury may (subject to this paragraph) at any time by direction require the FCA to publish a report containing information about—
- (a) any of the matters mentioned in paragraphs (a) to (ia) of paragraph 11(1);
  - (b) such other matters that the direction may specify.
- (2) The Treasury may give a direction under this paragraph requiring information to be published only if the Treasury consider that—
- (a) the information is reasonably necessary for the purpose of reviewing and scrutinising the discharge of the FCA’s functions, and
  - (b) other available information is not sufficient to meet that purpose.
- (3) Subject to sub-paragraph (4), the FCA must publish a report prepared under a direction given under this paragraph in such manner, and within such period, as the direction may require.
- (4) Nothing in this paragraph requires the inclusion in the report of any information whose publication would be against the public interest.
- (5) A direction under this paragraph may not—
- (a) require a report to be published more than once in each quarter;
  - (b) require the publication of information that is confidential information for the purposes of Part 23 (see section 348(2)).
- (6) The Treasury must consult the FCA before giving a direction under this paragraph.

- (7) In exercising the power under this paragraph, the Treasury must have regard to the desirability of minimising any adverse effect that the preparation of the report required in accordance with the direction may have on the exercise by the FCA of any of its other functions.
- (8) The Treasury must—
  - (a) lay before Parliament a copy of a direction given under this paragraph, and
  - (b) publish the direction in such manner as the Treasury think fit.
- (9) A direction under this paragraph may be varied or revoked by the giving of a further direction.”
  - (3) After paragraph 21 of Schedule 1ZB insert—

*“Other reports*

- 21A (1) The Treasury may (subject to this paragraph) at any time by direction require the PRA to publish a report containing information about—
  - (a) any of the matters mentioned in paragraphs (a) to (f) of paragraph 19(1);
  - (b) such other matters that the direction may specify.
- (2) The Treasury may give a direction under this paragraph requiring information to be published only if the Treasury consider that—
    - (a) the information is reasonably necessary for the purpose of reviewing and scrutinising the discharge of the PRA’s functions, and
    - (b) other available information is not sufficient to meet that purpose.
  - (3) Subject to sub-paragraph (4), the PRA must publish a report prepared under a direction given under this paragraph in such manner, and within such period, as the direction may require.
  - (4) Nothing in this paragraph requires the inclusion in the report of any information whose publication would be against the public interest.
  - (5) A direction under this paragraph may not—
    - (a) require a report to be published more than once in each quarter;
    - (b) require the publication of information that is confidential information for the purposes of Part 23 (see section 348(2)).
  - (6) The Treasury must consult the PRA before giving a direction under this paragraph.
  - (7) In exercising the power under this paragraph, the Treasury must have regard to the desirability of minimising any adverse effect that the preparation of the report required in accordance with the direction may have on the exercise by the PRA of any of its other functions.
  - (8) The Treasury must—
    - (a) lay before Parliament a copy of a direction given under this paragraph, and
    - (b) publish the direction in such manner as the Treasury think fit.
  - (9) A direction under this paragraph may be varied or revoked by the giving of a further direction.””

**Member’s explanatory statement**

This new clause confers a power on the Treasury to require the FCA and the PRA to publish information at any time on any requested matters, in addition to the current requirement to provide an annual report to the Treasury (in the case of the FCA) or the Chancellor (in the case of the PRA).

The Chancellor of the Exchequer

NC18

★ To move the following Clause—

**“Composition of Panels**

- (1) FSMA 2000 is amended in accordance with subsections (2) to (8).
- (2) After section 1M (FCA’s general duty to consult) insert—

**“1MA Composition of Panels**

- (1) A person who receives remuneration from the FCA, the PRA, the Payment Systems Regulator, the Bank of England or the Treasury is disqualified from being appointed as a member of a panel established under any of sections 1N to 1QA or 138IA.
- (2) Subsection (1) does not apply in respect of a panel mentioned in that subsection if regulations made by the Treasury provide for it not to apply to that panel.
- (3) Regulations under subsection (2) may make provision in respect of a panel—
  - (a) generally, or
  - (b) only in relation to such descriptions of persons or cases as the regulations may specify (but the power to make such regulations may not be exercised so as to specify persons by name).”
- (3) In section 1N (FCA Practitioner Panel), after subsection (5) insert—

“(6) Subsections (4) and (5) are subject to section 1MA.”
- (4) In section 1O (Smaller Business Practitioner Panel), after subsection (6) insert—

“(6A) Subsections (5) and (6) are subject to section 1MA.”
- (5) In section 1P (Markets Practitioner Panel), after subsection (6) insert—

“(7) Subsections (4) to (6) are subject to section 1MA.”
- (6) In section 1Q (Consumer Panel), after subsection (4) insert—

“(4A) Subsection (4) is subject to section 1MA.”
- (7) After section 2L (PRA’s general duty to consult) insert—

**“2LA Composition of Panels**

- (1) A person who receives remuneration from the FCA, the PRA, the Payment Systems Regulator, the Bank of England or the Treasury is disqualified from being appointed as a member of a panel established under any of sections 2M, 2MA or 138JA.
- (2) Subsection (1) does not apply in respect of a panel mentioned in that subsection if regulations made by the Treasury provide for it not to apply to that panel.
- (3) Regulations under subsection (2) may make provision in respect of a panel—
  - (a) generally, or

- (b) only in relation to such descriptions of persons or cases as the regulations may specify (but the power to make such regulations may not be exercised so as to specify persons by name)."
- (8) In section 2M (the PRA Practitioner Panel), after subsection (5) insert—  
“(6) Subsections (4) and (5) are subject to section 2LA.”
- (9) In section 103 of the Financial Services (Banking Reform) Act 2013 (regulator’s general duty to consult) after subsection (5) insert—  
“(5A) A person who receives remuneration from the FCA, the PRA, the Payment Systems Regulator, the Bank of England or the Treasury is disqualified from being appointed as a member of a panel established under subsection (3).  
(5B) Subsection (5A) does not apply in respect of a panel mentioned in that subsection if regulations made by the Treasury provide for it not to apply to that panel.  
(5C) Regulations under subsection (5B) may make provision in respect of a panel—  
(a) generally, or  
(b) only in relation to such descriptions of persons or cases as the regulations may specify (but the power to make such regulations may not be exercised so as to specify persons by name).””

**Member’s explanatory statement**

This new clause disqualifies those who are paid by a regulator, the Bank of England or the Treasury from being appointed to a statutory advisory panel, subject to any exemptions the Treasury may set out in regulations.

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The Chancellor of the Exchequer

NC19

★ To move the following Clause—

**“Consultation on rules**

- (1) In section 138I of FSMA 2000 (consultation by the FCA), after subsection (4) insert—  
“(4A) The FCA must include, in the account mentioned in subsection (4), a list of the respondents who made the representations, where those respondents have consented to the publication of their names.  
(4B) The duty in subsection (4A) is not to be read as authorising or requiring such processing of personal data as would contravene the data protection legislation (but the duty is to be taken into account in determining whether particular processing of data would contravene that legislation).  
(4C) For the purposes of this section, the exemption relating to functions conferred on the FCA mentioned in paragraph 11 of Schedule 2 to the Data Protection Act 2018 (exemption from application of listed GDPR provisions) does not apply.”

- (2) In section 138J of FSMA 2000 (consultation by the PRA), after subsection (4) insert—
- “(4A) The PRA must include, in the account mentioned in subsection (4), a list of the respondents who made the representations, where those respondents have consented to the publication of their names.
- (4B) The duty in subsection (4A) is not to be read as authorising or requiring such processing of personal data as would contravene the data protection legislation (but the duty is to be taken into account in determining whether particular processing of data would contravene that legislation).
- (4C) For the purposes of this section, the exemption relating to functions conferred on the PRA mentioned in paragraph 9 of Schedule 2 to the Data Protection Act 2018 (exemption from application of listed GDPR provisions) does not apply.”
- (3) In section 104 of the Financial Services (Banking Reform) Act 2013 (consultation requirements), after subsection (5) insert—
- “(5A) The Payment Systems Regulator must include, in the account mentioned in subsection (5), a list of the respondents who made the representations, where those respondents have consented to the publication of their names.
- (5B) The duty in subsection (5A) is not to be read as authorising or requiring such processing of personal data as would contravene the data protection legislation (but the duty is to be taken into account in determining whether particular processing of data would contravene that legislation).
- (5C) In this section “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

**Member’s explanatory statement**

This new clause would require the FCA, the PRA, the Payment Systems Regulator and the Bank of England to publish the names of respondents to their consultations on proposed new rules, where those respondents have consented to such publication.

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The Chancellor of the Exchequer

NC20

★ To move the following Clause—

**“Unauthorised co-ownership AIFs**

- (1) FSMA 2000 is amended as follows.
- (2) In section 261E (authorised contractual schemes: holding of units)—
- (a) before subsection (1) insert—
- “(A1) This section sets out requirements for the purposes of section 261D(1)(a) (authorisation orders).”;
- (b) in subsection (1) for “a contractual” substitute “the”.

- (3) After section 261Z5 insert—

**“CHAPTER 3B**

**UNAUTHORISED CO-OWNERSHIP AIFs**

**261Z6 Power to make provision about unauthorised co-ownership AIFs**

- (1) The Treasury may by regulations make provision about unauthorised co-ownership AIFs that corresponds or is similar to, or applies with modifications, any of sections 261M to 261O and section 261P(1) and (2) (rights and liabilities of participants in authorised co-ownership schemes).
- (2) Regulations under subsection (1) may make provision about unauthorised co-ownership AIFs generally, or about unauthorised co-ownership AIFs of a description specified in the regulations.
- (3) In this section “unauthorised co-ownership AIF” means a co-ownership scheme that—
  - (a) is an AIF, and
  - (b) is not authorised for the purposes of this Act by an authorisation order in force under section 261D(1).”

**Member’s explanatory statement**

This new clause would enable the Treasury to make provision about the rights and liabilities of participants in unauthorised co-ownership AIFs which is similar to that made in relation to authorised co-ownership schemes in Chapter 3A of Part 17 of the Financial Services and Markets Act 2000.

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Tulip Siddiq

NC1

To move the following Clause—

**“National strategy on financial fraud**

- (1) The Treasury must lay before the House of Commons a national strategy for the purpose of detecting, preventing and investigating fraud and associated financial crime within six months of the passing of this Act.
- (2) In preparing the strategy, the Treasury must consult—
  - (a) the Secretary of State for the Home Office,
  - (b) the National Economic Crime Centre,
  - (c) law enforcement bodies which the Treasury considers relevant to the strategy,
  - (d) relevant regulators,
  - (e) financial services stakeholders,
  - (f) digital platforms, telecommunications companies, financial technology companies, and social media companies.
- (3) The strategy must include arrangements for a data-sharing agreement involving—
  - (a) relevant law enforcement agencies,

- (b) relevant regulators,
  - (c) financial services stakeholders,
  - (d) telecommunications stakeholders, and
  - (e) technology-based communication platforms,
- for the purposes of detecting, preventing and investigating fraud and associated financial crime and, in particular, tracking stolen money which may pass through mule bank accounts or platforms operated by other financial services stakeholders.
- (4) In this section “fraud and associated financial crime” includes, but is not limited to authorised push payment fraud, unauthorised facility takeover fraud, and online and offline identity fraud.
  - (5) In this section, “financial services stakeholders” includes banks, building societies, credit unions, investment firms, Electric Money Institutions, virtual asset providers and exchanges, and payment system operators.”

#### **Member’s explanatory statement**

This new clause would require the Treasury to publish a national strategy for the detection, prevention and investigation of fraud and associated financial crime, after having consulted relevant stakeholders. The strategy must include arrangements for a data sharing agreement between law enforcement agencies, regulators and others to track stolen money.

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Tulip Siddiq

NC2

To move the following Clause—

#### **“Local community access to essential in-person banking services**

- (1) The Treasury and the FCA must jointly undertake a review of the state of access to essential in-person banking services for local communities in the United Kingdom, and jointly prepare a report on the outcome of the review.
- (2) “Essential in-person banking services” include services which are delivered face-to-face and which local communities require regular access to. These may include services provided in banks, banking hubs, or other service models.
- (3) The report mentioned in subsection (1) must be laid before the House of Commons as soon as practicable after the review has been undertaken.
- (4) The report mentioned in subsection (1) must propose a minimum level of access to essential in-person banking services which must be provided by banks and building societies in applicable local authority areas in the United Kingdom, for the purpose of ensuring local communities have adequate access to essential in-person banking services.
- (5) The applicable local authority areas mentioned in subsection (4) are local authority areas in which, in the opinion of the FCA, local communities have a particular need for the provision of essential in-person banking services.
- (6) In any applicable local authority area which, according to the results of the review undertaken under subsection (1) falls below the minimum level of access mentioned in subsection (4), the FCA may give directions

for the purpose of ensuring essential in-person banking services meet the minimum level of access required by subsection (4).

- (7) A direction under subsection (6) may require a minimum level of provision of essential in-person banking services through mandating, for example—
- (a) a specified number of essential in-person banking services within a geographical area, or
  - (b) essential in-person banking services to operate specific opening hours.”

**Member’s explanatory statement**

This new clause would require the Treasury and FCA to conduct and publish a review of community need for, and access to, essential in-person banking services, and enable the FCA to ensure areas in need of essential in-person banking service have a minimum level of access to such services.

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Tulip Siddiq

NC3

To move the following Clause—

**“Essential banking services access policy statement**

- (1) The Treasury must lay before the House of Commons an essential banking services access policy statement within six months of the passing of this Act.
- (2) An “essential banking services access policy statement” is a statement of the policies of His Majesty’s Government in relation to the provision of adequate levels of access to essential in-person banking services in the United Kingdom.
- (3) “Essential in-person banking services” include services which are delivered face-to-face, and may include those provided in banks, banking hubs, or other service models.
- (4) The policies mentioned in sub-section (2) may include those which relate to—
  - (a) ensuring adequate availability of essential in-person banking services;
  - (b) ensuring adequate provision of support for online banking training and internet access, for the purposes of ensuring access to online banking; and
  - (c) expectations of maximum geographical distances service users should be expected to travel to access essential in-person banking services in rural areas.
- (5) The FCA must have regard to the essential banking services access policy statement when fulfilling its functions.”

**Member’s explanatory statement**

This new clause would require the Treasury to publish a policy statement setting out its policies in relation to the provision of essential in-person banking services, including policies relating to

availability of essential in-person banking services, support for online banking, and maximum distances people can expect to travel to access services.

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Tulip Siddiq

NC4

To move the following Clause—

**“FCA duty to report on mutual and co-operative business models**

- (1) The FCA must lay before Parliament a report as soon as practicable after the end of—
  - (a) the period of 12 months beginning with the day on which this Act is passed, and
  - (b) every subsequent 12-month period,on how it considers the specific needs of mutual and co-operative financial services providers and other relevant business models when discharging its regulatory functions.
- (2) The “specific needs” referred to in subsection (1) must include the needs of mutual and co-operative financial services providers to have a level playing field with financial services providers which are not mutuals or co-operatives.
- (3) The “mutual and co-operative financial services providers and other relevant business models” referred to in subsection (1) may include—
  - (a) credit unions,
  - (b) building societies,
  - (c) mutual banks,
  - (d) co-operative banks, and
  - (e) regional banks.”

**Member’s explanatory statement**

This new clause would require the FCA to report annually on how they have considered the specific needs of mutual and co-operative financial services.

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Tulip Siddiq

NC5

To move the following Clause—

**“PRA duty to report on mutual and co-operative business models**

- (1) The FCA must lay before Parliament a report as soon as practicable after the end of—
  - (a) the period of 12 months beginning with the day on which this Act is passed, and
  - (b) every subsequent 12-month period,on how it considers the specific needs of mutual and co-operative financial services providers and other relevant business models when discharging its regulatory functions.

- (2) The “specific needs” referred to in subsection (1) must include the needs of mutual and co-operative financial services providers to have a level playing field with financial services providers which are not mutuals or co-operatives.
- (3) The “mutual and co-operative financial services providers and other relevant business models” referred to in subsection (1) may include—
  - (a) credit unions,
  - (b) building societies,
  - (c) mutual banks,
  - (d) co-operative banks, and
  - (e) regional banks.”

#### **Member’s explanatory statement**

This new clause would require the FCA to report annually on how they have considered the specific needs of mutual and co-operative financial services.

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Tulip Siddiq

NC6

To move the following Clause—

#### **“Updated Green Finance Strategy**

- (1) The Treasury must lay before the House of Commons an updated Green Finance Strategy within three months of the passing of this Act.
- (2) The strategy must include—
  - (a) a Green Taxonomy, and
  - (b) Sustainability Disclosure Requirements.
- (3) In preparing the strategy, the Treasury must consult—
  - (a) financial services stakeholders,
  - (b) businesses in the wider economy,
  - (c) the Secretary of State for Business, Energy and Industrial Strategy, and
  - (d) the Secretary of State for Work and Pensions.
- (4) In this section a “Green Taxonomy” means investment screening criteria which classify which activities can be defined as environmentally sustainable including, but not limited to—
  - (a) climate change mitigation and adaptation,
  - (b) sustainable use and protection of water and marine resources,
  - (c) transitions to a circular economy,
  - (d) pollution prevention and control, and
  - (e) protection and restoration of biodiversity and ecosystems.
- (5) In this section “Sustainability Disclosure Requirements” are the requirements placed on companies, including listed issuers, asset managers and asset owners, to report on their sustainability risks, opportunities and impacts.”

**Member's explanatory statement**

This new clause would require the Treasury to publish an updated Green Finance Strategy. This must include a Green Taxonomy and Sustainability Disclosure Requirements.

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Siobhain McDonagh  
David Mundell  
Emma Hardy  
Philip Davies  
Henry Smith  
Greg Smith  
Sir Greg Knight  
Sir John Hayes  
Dame Angela Eagle  
Martin Vickers  
Hilary Benn

Douglas Ross  
Stephen Crabb  
Rushanara Ali  
Sir Iain Duncan Smith  
Paul Girvan

Danny Kruger  
Dame Meg Hillier  
Andrea Leadsom  
Sir Stephen Timms  
Mr Clive Betts

NC7

To move the following Clause—

**"Access to cash: Guaranteed minimum provision**

- (1) The Treasury must, by regulations, make provision to guarantee a minimum level of access to free of charge cash access services for consumers across the United Kingdom.
- (2) The minimum level of access referred to in subsection (1) must be included in the regulations.
- (3) Regulations under this section shall be made by statutory instrument, and may not be made unless a draft has been laid before and approved by resolution of each House of Parliament."

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Olivia Blake

NC8

To move the following Clause—

**"Stewardship reporting requirements for occupational pension schemes**

- (1) Section 36 of the Pensions Act 1995 (Choosing investments) is amended as follows.
- (2) In subsection (1) after "(4)" insert "and, for relevant schemes, (4A)".
- (3) After subsection (4), insert—
  - "(4A) The trustees of relevant schemes must publish information regarding their stewardship activities. In doing so they must have regard to, amongst other matters, the scheme's—
    - (a) purpose, culture, values and strategy;
    - (b) governance structures and processes;
    - (c) conflicts of interest policy;
    - (d) engagement strategy, including escalation steps;
    - (e) aggregate statistics on total engagement activity;
    - (f) thematic engagement priorities; and
    - (g) engagement outcomes."

- (4) After subsection (6), insert—
- “(6A) For the purposes of this section—
- (a) a “relevant scheme” means a scheme with £5bn or more in relevant assets,
  - (b) “relevant assets” is to be calculated in accordance with methods and assumptions prescribed in regulations.””

**Member’s explanatory statement**

This new clause raises the baseline standard of stewardship for large institutional investors beyond the minimum standards set by the UK’s implementation of the Shareholder Rights Directive, drawing on the Financial Reporting Council’s Stewardship Code and ShareAction’s Best Practice Engagement Reporting Template.

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Olivia Blake

NC9

To move the following Clause—

**“Stewardship reporting requirements for certain investors**

- (1) The FCA may make rules requiring some or all of those managing investments to publish information on their stewardship activities. In doing so they must have regard to, amongst other matters—
  - (a) purpose, culture, values, business model and strategy;
  - (b) governance structures and processes;
  - (c) conflicts of interest policy;
  - (d) engagement strategy, including escalation steps;
  - (e) aggregate statistics on total engagement activity;
  - (f) thematic engagement priorities; and
  - (g) engagement outcomes.
- (2) The FCA may make rules to clarify the definition of “the most significant votes” in rule 3.4.6 of the systems and controls section of the FCA Handbook.”

**Member’s explanatory statement**

This new clause would enable the FCA to make rules raising the baseline standard of stewardship for large institutional investors beyond the minimum standards set by the UK’s implementation of the Shareholder Rights Directive, drawing on the Financial Reporting Council’s Stewardship Code and ShareAction’s Best Practice Engagement Reporting Template. It would also allow the FCA to define and monitor “significant votes”.

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Nick Smith

NC10

To move the following Clause—

**“Consumer Panel duty to report to Parliament**

- (1) FSMA 2000, as amended by Section 6 of the Financial Services Act 2012 and Section 132 of the Financial Services (Banking Reform) Act 2013, is amended as follows.

- (2) At the end of section 1Q, insert—
- “(7) The Consumer Panel must lay an annual report before Parliament evaluating the FCA’s fulfilment of its statutory duty to protect consumers, including comments on—
- (a) the adequacy and appropriateness of the FCA’s use of its regulatory powers;
  - (b) the measures the FCA has taken to protect vulnerable consumers, including pensioners, people with disabilities, and people receiving forms of income support; and
  - (c) the FCA’s receptiveness to the recommendations of the Consumer Panel.””

#### **Member’s explanatory statement**

This new clause would introduce a further level of Parliamentary scrutiny of the work of the FCA to protect consumers by requiring the Financial Services Consumer Panel to lay an annual report before Parliament outlining its views on the FCA’s fulfilment of its statutory duty to protect consumers.

Harriett Baldwin  
 Dame Meg Hillier  
 Ian Paisley  
 Paul Maynard  
 Sir Bill Wiggin

**NC11**

To move the following Clause—

#### **“Personalised financial guidance: power to make regulations**

- (1) The Treasury may by regulations make provision for UK citizens to access personalised financial guidance from appropriately regulated financial services firms, for the purposes of supporting them to make decisions which improve their financial sustainability.
- (2) The “UK citizens” referred to in sub-section (1) include, in particular, UK citizens who are unlikely to have access to financial advice (provided in accordance with Chapter 12 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001).
- (3) In this section, “personalised financial guidance” means a communication—
  - (a) that is made to a person in their capacity as an investor or potential investor, or in their capacity as agent for an investor or a potential investor;
  - (b) which constitutes a recommendation to them to do any of the following (whether as principal or agent)—
    - (i) buy, sell, subscribe for, exchange, redeem, hold or underwrite a particular investment which is a security, structured deposit or a relevant investment; or
    - (ii) exercise or not exercise any right conferred by such an investment to buy, sell, subscribe for, exchange or redeem such an investment; and
  - (c) that is—

- (i) based on a consideration of the circumstances of that person; and
  - (ii) not explicitly presented as suitable for the person to whom it is made.
- (4) The provision that may be made by regulations under this section includes provisions—
  - (a) relating to the provision of financial advice;
  - (b) relating to suitability requirements under MiFID;
  - (c) conferring powers, or imposing duties, on a relevant regulator (including a power to make rules or other instruments).
- (5) The power to make regulations under this section includes power to modify legislation.
- (6) The power under subsection (5) includes power to modify the definition of “personalised financial guidance” in subsection (2).
- (7) Regulations made under this section, and which modify only the following kinds of legislation are subject to the negative procedure—
  - (a) EU tertiary legislation;
  - (b) subordinate legislation that was not subject to affirmative resolution on being made.
- (8) Regulations under this section to which subsection (7) does not apply are subject to the affirmative procedure.
- (9) Before making regulations under this section, the Treasury must consult the FCA.
- (10) In this section—

“legislation” means primary legislation, subordinate legislation and retained direct EU legislation;

“MiFID” means Regulation (EU) 2017/565 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.”

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Richard Fuller  
Craig Tracey  
Vicky Ford

NC12

To move the following Clause—

**“Requirement to publish regulatory performance information on new authorisations**

- (1) The FCA and PRA must each lay before Parliament a report on their regulatory performance as soon as practicable after the end of—
  - (a) the period of six months beginning with the day on which this Act receives Royal Assent, and
  - (b) each subsequent quarter.
- (2) A report under this section must include analysis of data on—

- (a) the number of new applications for authorisation made to each regulator during the reporting period, with a breakdown by authorisation type;
- (b) the rates of approval for applications for authorisation by each regulator, with a breakdown by authorisation type;
- (c) the average length of time taken from application to final authorisation decision by each regulator;
- (d) the FCA or PRA's assessment of the time and cost incurred by applicants to comply with information requirements for authorisation; and
- (e) such other matters as the Treasury considers appropriate."

**Member's explanatory statement**

This new clause requires both regulators to publish regular reports to Parliament on their regulatory performance for new applicants for regulation.

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Richard Fuller  
Craig Tracey  
Vicky Ford

NC13

To move the following Clause—

**"Requirement to publish regulatory performance information on authorised firms**

- (1) The FCA must lay before Parliament a report on its regulatory performance as soon as practicable after the end of—
  - (a) the period of six months beginning with the day on which this Act receives Royal Assent, and
  - (b) each subsequent quarter.
- (2) A report under this section must include the average length of time taken from the initial submission of an application for authorisation by an applicant to the issuing of a final decision by the FCA for each of the following regulatory responsibilities—
  - (a) approved persons;
  - (b) change in control;
  - (c) variation of permission;
  - (d) waivers and modifications that alter compliance obligations."

**Member's explanatory statement**

This new clause requires the FCA to publish regular reports to Parliament on its regulatory performance for existing authorised entities and persons.

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Richard Fuller  
Craig Tracey  
Vicky Ford

NC14

To move the following Clause—

**“Determination of applications**

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) After section 61(2) insert—
  - “(2ZA) In determining the application, the regulator must—
    - (a) assign a new application to a case handler within five working days of the application being received;
    - (b) complete an initial application review within ten working days of allocation to a case handler; and
    - (c) make no requests for additional information after a period of fifteen working days from the receipt of the application.
  - (2ZZA) The regulators must publish, on an annual basis, monitoring data relating to—
    - (a) the proportion of cases which require escalation to sponsoring firms, including summary trend data on the reasons for escalation;
    - (b) the average time taken to assign a case handler; and
    - (c) the average number of days it takes to complete determination of an application.”

**Member’s explanatory statement**

This new clause would add to the regulators’ authorisation KPIs outlined in the Financial Services and Markets Act 2000 and require them to publish monitoring data related to the determination of authorisations.

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Richard Fuller  
Craig Tracey  
Vicky Ford

NC15

To move the following Clause—

**“Regulators’ duty to report on competitiveness and growth objective**

- (1) The FCA and PRA must each lay before Parliament a report as soon as practicable after the end of—
  - (a) the period of 12 months beginning with the day on which this Act receives Royal Assent, and
  - (b) every subsequent 12-month period,on how they consider that they have facilitated the international competitiveness of the economy of the United Kingdom and its growth in the medium to long term.
- (2) Reports under this section must include analysis of data on the following—

- (a) steps taken to simplify regulatory rulebooks and frameworks;
- (b) the number of new market entrants to the UK;
- (c) new regulations introduced in the previous twelve months;
- (d) an assessment of the impact of the new regulations to UK competitiveness;
- (e) comparative analysis of the number of new authorisations in the UK and other international jurisdictions in the previous twelve months;
- (f) comparative analysis of product and service innovations introduced in the UK and other international jurisdictions in the previous twelve months; and
- (g) such other matters as the Treasury may from time to time direct.”

#### **Member’s explanatory statement**

This new clause would require both the FCA and PRA to each publish an annual report setting out how they have facilitated international competitiveness and growth against a range of data and analysis requirements.

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Richard Fuller  
Craig Tracey  
Vicky Ford

NC16

To move the following Clause—

#### **“Regulatory principles to be applied by both regulators: proportionality principle**

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) In section 3B(1)(b), leave out from “benefits,” to end and insert “taking into consideration the nature of the service or product being delivered, the nature of risk to the consumer, whether the cost of implementation is proportionate to that level of risk and whether the burden or restriction enhances UK international competitiveness.””

#### **Member’s explanatory statement**

This new clause would amend the existing regulatory principle for both regulators and require them nature of and risk to the consumer, and the service or product being delivered, must be taken into account when imposing a new burden or restriction.

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Caroline Lucas

NC21

★ To move the following Clause—

#### **“Prudential capital requirements for specified financial institutions**

- (1) Within six months of the passing of this Act, the Treasury must by regulations set prudential capital requirements for specified financial institutions.
- (2) Regulations under this section must require financial institutions to hold in reserve £1 for every £1 used to finance assets connected with fossil fuel

activities, which is liable for potential loss due to the climate risk exposure of the assets.

- (3) In this section “fossil fuel activities” means the extraction, production, transportation, refining and marketing of crude oil, natural gas or thermal coal, as well as any fossil-fuel fired power plants, unless covered by an exemption.”

**Member’s explanatory statement**

This new clause would give the Treasury the power to make regulations requiring financial institutions to hold capital in reserve to reflect the climate risk exposure of assets connected with fossil fuel activities.

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The Chancellor of the Exchequer

8

- ★ Clause 6, page 5, line 9, leave out “restatement” and insert “excluded”

**Member’s explanatory statement**

See the explanatory statement for Amendment 10.

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The Chancellor of the Exchequer

9

- ★ Clause 6, page 5, line 12, leave out from “specified,” to end of line 13 and insert “in relation to the making of rules by the regulator in regulations made by the Treasury for the purposes of this section.”

**Member’s explanatory statement**

This amendment is for drafting consistency with the new subsections being inserted by Amendment 10.

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The Chancellor of the Exchequer

10

- ★ Clause 6, page 5, line 14, leave out subsection (2) and insert—

- “(2) A relevant requirement does not apply to the making of rules by a regulator if and to the extent that—
- (a) the proposed rules make excluded changes to provision of existing rules made by the regulator containing a retained EU obligation, and
  - (b) the retained EU obligation is specified, or falls within a description of obligations specified, in relation to the making of rules by the regulator in regulations made by the Treasury for the purposes of this section.
- (2A) A relevant requirement does not apply to the revocation of rules by a regulator if and to the extent that—

- (a) the rules being revoked make provision containing a retained EU obligation, and
  - (b) the rules are revoked without being replaced by other rules made by the regulator.
- (2B) For the purposes of subsection (1), rules make excluded provision in relation to provisions of legislation if, in the opinion of the regulator making the rules, the rules reproduce those provisions—
  - (a) without any changes that are material, or
  - (b) with changes that are material but their effect is to reduce a regulatory burden without having any other effects that are material.
- (2C) For the purposes of subsection (2), rules make excluded changes to provision of existing rules if, in the opinion of the regulator making the rules—
  - (a) the effect of the changes is to reduce a regulatory burden, and
  - (b) the changes have no other effects that are material.
- (2D) In this section references to a “regulatory burden” include (among other things) references to—
  - (a) a financial cost;
  - (b) an administrative inconvenience;
  - (c) an obstacle to trade or innovation;
  - (d) an obstacle to efficiency, productivity or profitability.
- (2E) Where a relevant requirement does not apply to the making or revocation of rules by virtue of subsection (1), (2) or (2A), the requirement also does not apply to any rules that contain incidental, supplemental, consequential or transitional provision so far as made in connection with provision made by virtue of that subsection.”

**Member’s explanatory statement**

This amendment broadens the circumstances in which consultation requirements in connection with the making or revocation of regulatory rules need not be complied with.

\_\_\_\_\_  
The Chancellor of the Exchequer

11

★ Clause 6, page 5, line 29, leave out subsection (4) and insert—

- “(4) Where a regulator makes or revokes rules without complying with a relevant requirement by virtue of subsection (1), (2) or (2A), the regulator must publish a statement which must—
- (a) in a case falling within subsection (1), list the provisions of legislation that have been restated by the rules;
  - (b) in a case falling with subsection (2), specify or describe the retained EU obligations in relation to which changes have been made by the rules;
  - (c) in a case falling within subsection (2A), specify or describe the retained EU obligations that have been removed by the revocation of the rules.

- (4A) Where the statement relates to the making of rules that include provision of a kind mentioned in subsection (2B)(b) or (2C)(a) and (b), the statement must—
- (a) if made by the FCA, include an explanation of the FCA’s reasons for believing that making the proposed rules is compatible with its duties under section 1B(1) and (5)(a) of FSMA 2000;
  - (b) if made by the PRA, include an explanation of the PRA’s reasons for believing that making the proposed rules is compatible with its duties under—
    - (i) section 2B(1) or, as the case requires, section 2C(1) or 2D(3) of FSMA 2000, and
    - (ii) section 2H of FSMA 2000;
  - (c) if made by the Bank of England, include an explanation of the Bank’s reasons for believing that making the proposed rules is compatible with the Bank’s financial stability objective under section 2A of the Bank of England Act 1998;
  - (d) if made by the Payment Systems Regulator, include an explanation of the Regulator’s reasons for believing that making the proposed rules is compatible with its duties under section 49 of the Financial Services (Banking Reform) Act 2013.”

**Member’s explanatory statement**

This amendment imposes a duty on the regulators to publish a statement about the making of any rules that are made without complying with consultation requirements under this clause.

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The Chancellor of the Exchequer

12

★ Clause 38, page 53, line 25, at end insert—

“(6A) Subsections (5) and (6) are subject to section 1MA.”

**Member’s explanatory statement**

This amendment would ensure that NC18 applies in the case of the Listing Authority Advisory Panel (which is a new panel required by clause 38 of the Bill).

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The Chancellor of the Exchequer 13

★ Clause 39, page 54, line 7, at end insert—

“(6) Subsections (4) and (5) are subject to section 2LA.”

**Member’s explanatory statement**

This amendment would ensure that NC18 applies in the case of the Insurance Practitioner Panel (which is a new panel required by clause 39 of the Bill).

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Richard Fuller 1  
 Craig Tracey  
 Vicky Ford

Clause 40, page 54, line 29, at end insert—

- “(c) be provided with any information or data that the Panel requires in order to fulfil its duties;
- (d) publish the agendas and minutes of meetings of the Panel; and
- (e) make publicly available its recommendations in full including, but not limited to, the evidence base and analysis it used to make its recommendations, the assessed costs and benefits of the FCA’s activities and the range of representations made by Panel members regarding those recommendations.”

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Richard Fuller 2  
 Craig Tracey  
 Vicky Ford

Clause 40, page 54, line 36, at end insert “at least two of whom must be representatives of FCA authorised firms.”

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The Chancellor of the Exchequer 14

★ Clause 40, page 54, line 38, at end insert—

“(8A) Subsections (7) and (8) are subject to section 1MA.”

**Member’s explanatory statement**

This amendment would ensure that NC18 applies in the case of the FCA Cost Benefit Analysis Panel (which is a new panel required by clause 40 of the Bill).

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Richard Fuller 3  
 Craig Tracey  
 Vicky Ford

Clause 40, page 54, line 41, leave out from “must” to end of line 42 and insert “within 30 days of the receipt of representations made to it by the FCA Cost Benefit Analysis Panel, publish a response to such representations , including a statement of actions it will take as a result of the representations.”

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Richard Fuller 4  
 Craig Tracey  
 Vicky Ford

Clause 40, page 55, line 20, at end insert—

- “(c) be provided with any information or data that the Panel requires in order to fulfil its duties;
- (d) publish the agendas and minutes of meetings of the Panel; and
- (e) make publicly available its recommendations in full including, but not limited to, the evidence base and analysis it used to make its recommendations, the assessed costs and benefits of the PRA’s activities and any dissenting representations made by Panel members regarding those recommendations.”

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Richard Fuller 5  
 Craig Tracey  
 Vicky Ford

Clause 40, page 55, line 27, at end insert “at least two of whom must be representatives of PRA authorised firms”

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The Chancellor of the Exchequer 15

★ Clause 40, page 55, line 29, at end insert—

“(8A) Subsections (7) and (8) are subject to section 2LA.”

**Member’s explanatory statement**

This amendment would ensure that NC18 applies in the case of the PRA Cost Benefit Analysis Panel (which is a new panel required by clause 40 of the Bill).

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Richard Fuller 6  
 Craig Tracey  
 Vicky Ford

Clause 40, page 55, line 32, leave out from “must” to end of line 33 and insert “within 30 days of the receipt of representations made to it by the PRA Cost Benefit Analysis

Panel, publish a response to such representations , including a statement of actions it will take as a result of the representations.”

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The Chancellor of the Exchequer

16

★ Clause 45, page 67, line 39, at end insert—

*“Other reports*

33A Paragraph 21A of Schedule 1ZB (other reports by PRA) applies in relation to the Bank, but as if—

- (a) the reference in sub-paragraph (1)(a) to paragraphs (a) to (f) of paragraph 19(1) were a reference to those paragraphs as substituted in relation to the Bank under paragraph 33 of this Schedule;
- (b) the reference in sub-paragraph (1)(b) to such other matters were a references to such other matters so far as relating to the exercise of the Bank’s FMI functions;
- (c) the reference in sub-paragraph (5)(b) to section 348 were a reference to that section as it applies in relation to the Bank under paragraph 23 of this Schedule.”

**Member’s explanatory statement**

This amendment confers a power on the Treasury to require the Bank of England to publish information at any time on any requested matters, in addition to the current requirement to provide an annual report to the Chancellor of the Exchequer. Paragraph 21A of schedule 1ZB to the Financial Services and Markets Act 2000 is inserted by NC17.

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Sarah Olney

7

★ Clause 64, page 78, line 20, at end insert—

“(5A) The relevant requirement referred to in subsection (5) must specify that reimbursement in qualifying cases cannot be refused on the basis that a victim, or victims, ought to have known that the payment order was executed subsequent to fraud or dishonesty.”

**Member’s explanatory statement**

This amendment would prevent reimbursement for victims of fraudulent or dishonest payments

being refused on the basis that that they should have known the payment was fraudulent or dishonest.

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The Chancellor of the Exchequer

17

- ★ Schedule 6, page 141, line 25, at end insert—

““digital settlement asset exchange provider” has the meaning given by section 182(5B) of the Banking Act 2009;”.

**Member’s explanatory statement**

This amendment adds a definition of digital settlement asset exchange provider to section 110 of the Financial Services (Banking Reform) Act 2013. Paragraph 4 of Schedule 6 to the Bill amends the Banking Act 2009 to insert new section 182(5B).

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The Chancellor of the Exchequer

18

- ★ Schedule 7, page 149, line 30, at end insert—

“11A In Schedule 4, after paragraph 7 insert—

*“Other reports*

- 7A (1) The Treasury may (subject to this paragraph) at any time by direction require the Regulator to publish a report containing information about such matters as are specified in the direction.
- (2) The Treasury may give a direction under this paragraph requiring information to be published only if the Treasury consider that—
- (a) the information is reasonably necessary for the purpose of reviewing and scrutinising the discharge of the Regulator’s functions, and
  - (b) other available information is not sufficient to meet that purpose.
- (3) Subject to sub-paragraph (4), the Regulator must publish a report prepared under a direction given under this paragraph in such manner, and within such period, as the direction may require.
- (4) Nothing in this paragraph requires the inclusion in the report of any information whose publication would be against the public interest.
- (5) A direction under this paragraph may not—
- (a) require a report to be published more than once in each quarter;
  - (b) require the publication of information that is confidential information as defined by section 91(2).
- (6) The Treasury must consult the Regulator before giving a direction under this paragraph.
- (7) In exercising the power under this paragraph, the Treasury must have regard to the desirability of minimising any adverse effect that the preparation of the report required in accordance with the direction may have on the exercise by the Regulator of any of its other functions.

- (8) The Treasury must—
- (a) lay before Parliament a copy of a direction given under this paragraph, and
  - (b) publish the direction in such manner as the Treasury think fit.
- (9) A direction under this paragraph may be varied or revoked by the giving of a further direction.””

**Member’s explanatory statement**

This amendment confers a power on the Treasury to require the Payment Systems Regulator to publish information at any time on any requested matters, in addition to the current requirement to provide an annual report to the FCA.

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## Order of the House

**[7 September 2022, as amended 22 September 2022]**

That the following provisions shall apply to the Financial Services and Markets Bill:

**Committal**

1. The Bill shall be committed to a Public Bill Committee.

**Proceedings in Public Bill Committee**

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 3 November 2022.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

**Proceedings on Consideration and Third Reading**

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

**Other proceedings**

7. Any other proceedings on the Bill may be programmed.
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