

Bank of England and Financial Services Bill [HL]

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 4th November 2015, as follows –

Clauses 1 to 13	Schedule 3
Schedule 1	Clause 18
Clauses 14 to 16	Schedule 4
Schedule 2	Clauses 19 to 30
Clause 17	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Before Clause 1

LORD EATWELL

1★ Insert the following new Clause –

“The Bank: definition

- (1) For the purpose of this Act, “the Bank” has the same meaning as in section 41 of the Bank of England Act 1998 (general interpretation).
- (2) In section 41 of the Bank of England Act 1998 –
 - (a) for “In this Act” substitute “For the purposes of this Act”; and
 - (b) after “England;” insert “for the purpose of this Act, powers delegated to “the Bank” may be exercised by, or be limited to, any or all of –
 - (i) the staff of the Bank of England,
 - (ii) the court of directors,
 - (iii) the committees of the court of directors,
 - (iv) the Governor,
 - (v) the Deputy Governors,
 - (vi) the executive staff; and”.”

Amendment
No.

Clause 1

LORD SHARKEY
BARONESS KRAMER

2 Page 1, line 7, at end insert—

“() In section 1(2) (court of directors), in paragraph (e) omit “not more than”. ”

LORD DAVIES OF OLDHAM
LORD TUNNICLIFFE

3 Page 1, line 10, leave out “Treasury” and insert “Chancellor of the Exchequer”

4 Page 3, line 9, at end insert—

“(8) The Treasury must—

- (a) publish in such a manner as it thinks fit the reasons for any changes to subsection (3), and
- (b) lay a copy of the publication provided for by paragraph (a) before each House of Parliament.”

Clause 3

LORD SHARKEY
BARONESS KRAMER
LORD DAVIES OF OLDHAM
LORD TUNNICLIFFE

The above-named Lords give notice of their intention to oppose the Question that Clause 3 stand part of the Bill.

Clause 4

LORD SHARKEY
BARONESS KRAMER
LORD DAVIES OF OLDHAM
LORD TUNNICLIFFE

The above-named Lords give notice of their intention to oppose the Question that Clause 4 stand part of the Bill.

Clause 5

LORD DAVIES OF OLDHAM
LORD TUNNICLIFFE

5 Page 4, line 26, leave out subsection (2)

6 Page 4, line 30, at end insert—

“() In subsection (2)(b), for “Treasury” substitute “Chancellor of the Exchequer”. ”

Amendment
No.

Clause 6

LORD SHARKEY
BARONESS KRAMER

7 Page 5, line 11, leave out “5” and insert “6”

After Clause 6

BARONESS WORTHINGTON
BARONESS KRAMER

8★ Insert the following new Clause –

“Long-term systemic risk

After section 9C(3)(c) of the Bank of England Act 1998 (objectives of the Financial Policy Committee) insert –

“(d) systemic risks to the long-term stability of the UK financial system attributable to long-term fundamental change, such as climate change, demographic change, and technological change.””

Clause 9

LORD DAVIES OF OLDHAM
LORD TUNNICLIFFE

9 Page 7, line 12, leave out “reasonable”

10 Page 7, line 14, leave out “reasonably”

Clause 10

LORD DAVIES OF OLDHAM
LORD TUNNICLIFFE

11 Page 8, line 12, leave out “reasonable”

12 Page 8, line 13, leave out “reasonably”

13 Page 8, line 17, leave out “reasonably”

Clause 11

LORD BICHARD
BARONESS KRAMER
LORD McFALL OF ALCLUITH

14 Page 9, line 27, leave out from “section” to end of line 28 and insert “shall not be construed as entitling the Comptroller to question the merits of the policy objectives of the Bank, including in relation to monetary policy.”

15 Page 9, leave out lines 29 and 30

16 Page 9, line 39, leave out from first “Bank’s” to end of line 40 and insert “policy objectives, including in relation to monetary policy.”

Amendment No.	Clause 11 – continued
17	Page 10, leave out lines 7 to 11
18	Page 11, leave out lines 21 to 25

LORD HIGGINS

Lord Higgins gives notice of his intention to oppose the Question that Clause 11 stand part of the Bill.

After Clause 11

LORD SHARKEY
BARONESS KRAMER

19 Insert the following new Clause –

“Composition of the Board of the PRA

In Schedule 1ZB to the Financial Services and Markets Act 2000, after paragraph 9(b), insert “, and

(c) the chief executive of the FCA.””

Clause 12

LORD SHARKEY
BARONESS KRAMER
LORD DAVIES OF OLDHAM
LORD TUNNICLIFFE

The above-named Lords give notice of their intention to oppose the Question that Clause 12 stand part of the Bill.

Clause 13

LORD SHARKEY
BARONESS KRAMER

The above-named Lords give notice of their intention to oppose the Question that Clause 13 stand part of the Bill.

Clause 14

LORD SHARKEY
BARONESS KRAMER

The above-named Lords give notice of their intention to oppose the Question that Clause 14 stand part of the Bill.

Amendment
No.

Clause 15

LORD SHARKEY
BARONESS KRAMER

The above-named Lords give notice of their intention to oppose the Question that Clause 15 stand part of the Bill.

After Clause 15

BARONESS KRAMER
LORD TEVERSON

20★ Insert the following new Clause –

“PRA: Green Investment Bank

- (1) The PRA must carry out its functions in a way that it considers will secure the provision of a “Green Investment Bank” service in the United Kingdom.
- (2) The PRA shall by rules specify the purposes that it considers should be supported in the United Kingdom by the provision of a “Green Investment Bank” service.
- (3) Rules under subsection (2) shall include the following purposes –
 - (a) the reduction of greenhouse gas emissions;
 - (b) the advancement of efficiency in the use of natural resources;
 - (c) the protection or enhancement of the natural environment;
 - (d) the protection or enhancement of biodiversity; and
 - (e) the promotion of environmental sustainability.
- (4) In subsection (3)(a), “greenhouse gas” has the meaning given by section 92(l) of the Climate Change Act 2008.”

Clause 18

LORD SHARKEY
BARONESS KRAMER

21 Page 15, line 19, at end insert –

- “(2) The terms of the extension under subsection (1) shall not apply to those persons who fall within the definition of “relevant authorised person” in section 33 of the Financial Services (Banking Reform) Act 2013.”

Clause 20

LORD BRIDGES OF HEADLEY

22 Page 17, line 18, leave out paragraph (d)

Amendment
No.

Clause 20 – *continued*

23

Page 17, line 22, at end insert –

- “() In section 204A (meaning of appropriate regulator) –
- (a) in subsection (3)(d) for the words from “the authorised person” to the end substitute “the revised statement of responsibilities is to be provided to the PRA only;”;
 - (b) in subsection (3A), after paragraph (b) insert –
 - “(ba) a requirement under section 62A(2) where the revised statement of responsibilities is to be provided to the FCA and the PRA;”.

Clause 21

LORD SHARKEY
BARONESS KRAMER

24

Page 17, line 45, leave out paragraph (c)

After Clause 21

LORD SHARKEY
BARONESS KRAMER

25

Insert the following new Clause –

“Unsolicited marketing of debt management services

The Treasury shall require that the FCA amend the rules in its handbook governing unsolicited marketing so that they apply to debt management services.”

After Clause 22

BARONESS DRAKE
LORD DAVIES OF OLDHAM
LORD TUNNICLIFFE

26★

Insert the following new Clause –

“Extending a duty of care to the financial sector

In every contract to supply a service, traders who are ring-fenced bodies providing financial services as defined under section 142A of the Financial Services and Markets Act 2000 (ring-fenced body) shall be subject to –

- (a) a fiduciary duty to their consumers and small businesses with respect to provision of –
 - (i) the operation of care services, and
 - (ii) the management of any individual contract to provide services,
 with reasonable care and skill, and
- (b) a duty of care towards consumers and small businesses across the financial services sector.”

Amendment
No.

After Clause 23

LORD BRIDGES OF HEADLEY

- 27 Insert the following new Clause –
- “Enforceability of agreements relating to credit**
- (1) Section 26A of the Financial Services and Markets Act 2000 (agreements relating to credit) is amended as follows.
- (2) In subsection (4) –
- (a) the words from “has” to the end become paragraph (a);
- (b) after that paragraph insert –
- “(b) is an appointed representative in relation to that activity,
- (c) is an exempt person in relation to that activity, or
- (d) is a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity.”
- (3) In subsection (5) –
- (a) the words from “the agreement” (in the third place they occur) to the end become paragraph (a) (and the existing paragraphs (a) and (b) become sub-paragraphs (i) and (ii) of that paragraph);
- (b) after that paragraph insert –
- “(b) that person is an appointed representative in relation to that activity,
- (c) that person is an exempt person in relation to that activity, or
- (d) that person is a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity.””
- 28 Insert the following new Clause –
- “Enforceability of credit agreements made through unauthorised persons**
- (1) Section 27 of the Financial Services and Markets Act 2000 (agreements made through unauthorised persons) is amended as follows.
- (2) After subsection (1) insert –
- “(1ZA) But this section does not apply to a regulated credit agreement or a regulated consumer hire agreement unless the provider knows before the agreement is made that the third party had some involvement in the making of the agreement or matters preparatory to its making.”
- (3) In subsection (1A) for “The agreement” substitute “An agreement to which this section applies”.
- (4) After subsection (4) insert –
- “(5) For the purposes of subsection (1ZA) –
- “regulated consumer hire agreement” has the meaning given by article 60N of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

Amendment
No.

After Clause 23 – *continued*

“regulated credit agreement” has the meaning given by article 60B of that Order.””

29 Insert the following new Clause –

“Transformer vehicles

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) After Part 17 insert –

“PART 17A

TRANSFORMER VEHICLES

284A Transformer vehicles

- (1) In this section “transformer vehicle” means an undertaking (“A”) which –
 - (a) is established for the purposes of carrying on the activities mentioned in subsection (2), or
 - (b) carries on those activities.
- (2) The activities referred to in subsection (1) are –
 - (a) assuming risk from another undertaking (“B”), and
 - (b) fully funding A’s exposure to that risk by issuing investments where the repayment rights of the investors are subordinated to A’s obligations to B in respect of the risk.
- (3) The Treasury may by regulations make provision for facilitating, and provision for regulating –
 - (a) the establishment and operation of transformer vehicles;
 - (b) the activities mentioned in subsection (2);
 - (c) the trading of investments issued by transformer vehicles.
- (4) Regulations under subsection (3) may (amongst other things) make provision –
 - (a) for the incorporation and registration in the United Kingdom of bodies corporate;
 - (b) for a body incorporated by virtue of the regulations to take such form and name as may be determined in accordance with the regulations;
 - (c) as to the purposes for which such a body may exist and the investments which it may issue;
 - (d) as to the constitution, ownership, management and operation of such a body;
 - (e) for such a body to comprise different parts;
 - (f) for such parts to have legal personality distinct from that of the body;
 - (g) as to the holding and management of the assets and liabilities of such a body, including provision for the segregation of assets and liabilities relating to different risks;

Amendment
No.

After Clause 23 – *continued*

- (h) as to the powers, duties, rights and liabilities of such a body and of other persons, including –
 - (i) its directors and other officers;
 - (ii) its shareholders, and persons who hold the beneficial title to shares in it without holding the legal title;
 - (iii) its auditor;
 - (iv) any persons holding assets for it;
 - (v) any persons who act or purport to act on its behalf;
 - (i) as to the merger of one or more such bodies and the division of such a body;
 - (j) for the appointment and removal of an auditor for such a body;
 - (k) as to the winding up and dissolution of such a body;
 - (l) enabling the FCA or the PRA to apply to a court for an order removing or replacing any director of, or person holding assets for, such a body;
 - (m) for the carrying out of investigations by persons appointed by the FCA or the PRA.
- (5) If regulations under subsection (3) make the provision mentioned in subsection (4)(e) references in subsection (4) to a body include its constituent parts.
- (6) Regulations under subsection (3) may –
- (a) impose criminal liability;
 - (b) confer functions on the FCA or the PRA (including the functions of making rules and giving directions);
 - (c) authorise the FCA or the PRA to require the Council of Lloyd's to exercise functions on its behalf (including functions conferred otherwise than by the regulations);
 - (d) confer jurisdiction on any court or on the Tribunal;
 - (e) provide for fees to be charged by the FCA or the PRA in connection with the carrying out of any of their functions under the regulations (including fees payable on a periodical basis);
 - (f) modify, exclude or apply (with or without modifications) any primary or subordinate legislation (including any provision of, or made under, this Act);
 - (g) make consequential amendments, repeals and revocations of any such legislation;
 - (h) modify or exclude any rule of law.
- (7) The provision that may be made by virtue of subsection (6)(f) includes provision extending or adapting any power to make subordinate legislation.
- (8) Regulations under subsection (3) may provide that a reference in the regulations to, or to any provision of, legislation (including an EU instrument and legislation of a country or territory outside the United Kingdom), is to be construed as a reference to that legislation or that provision as amended from time to time.

Amendment
No.

After Clause 23 – *continued*

- (9) In this section –
 “investment” includes any asset, right or interest;
 “primary legislation” means an Act, an Act of the Scottish Parliament, a Measure or Act of the National Assembly for Wales, or Northern Ireland legislation;
 “subordinate legislation” means an instrument made under primary legislation.
- (10) If a statutory instrument containing regulations under this section would, apart from this subsection, be treated as a hybrid instrument for the purposes of the Standing Orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.”
- (3) In section 429(2) (regulations subject to the affirmative procedure), after “262,” insert “284A,.”

After Clause 24

LORD MCKENZIE OF LUTON

30★ Insert the following new Clause –

“Pensions guidance: review

The Secretary of State shall, before any regulations under section 333A(2A) of the Financial Services and Markets Act 2000, as inserted by section 24(3) of this Act, come into force –

- (a) undertake and publish a review of –
 (i) the progress of provisions enabling a person to access a cash balance or other money purchase benefits, and
 (ii) the extent to which pension guidance has in practice empowered consumers to make informed and confident choices about their pension arrangements;
- (b) introduce arrangements for establishing a research programme to track consumer outcome with respect to the pensions guidance;
- (c) review the adequacy of reporting requirements for pension providers;
- (d) strengthen safeguards against pension scams through the provision of misleading guidance or advice;
- (e) clarify the distinction between pensions guidance and pensions advice;
- (f) identify –
 (i) the specific risks which consumers may face in the secondary annuity market, and
 (ii) any improvements, additional safeguards and resourcing which are required for an extended pensions guidance service to help individuals make decisions in connection with transferring or dealing with the right to payments under an annuity.”

Amendment
No.

After Clause 25

LORD NASEBY
BARONESS KRAMER
LORD DAVIES OF OLDHAM

- 31 Insert the following new Clause –
- “Duty on Financial Conduct Authority and Prudential Regulation Authority to consider ownership models and size of firms**
- (1) After section 1E(2)(e) of the Financial Services and Markets Act 2000, insert –
- “f) the importance to consumers of a diverse financial services sector that includes both firms of different ownership models (including mutual societies) and firms of different sizes.”
- (2) After section 2H(2) of the Financial Services and Markets Act 2000, insert –
- “(3) In discharging its general functions, the PRA must also have regard to the importance to consumers of a diverse financial services sector that includes both firms of different ownership models (including mutual societies) and firms of different sizes.””

Clause 29

LORD BRIDGES OF HEADLEY

- 32 Page 26, line 15, leave out “Sections 27 to 30” and insert “The following provisions”
- 33 Page 26, line 15, at end insert –
- “(a) section (*Transformer vehicles*);
- (b) sections 27 to 30.”

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MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE

5th November 2015

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