

# Financial Guidance and Claims Bill [HL]

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## MARSHALLED LIST OF AMENDMENTS TO BE MOVED ON CONSIDERATION OF COMMONS AMENDMENTS

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*[The page and line refer to Bill 131, the Bill as first printed for the Commons.]*

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### Clause 3

2 Page 3, line 12, leave out subsection (7) and insert –

“(7) The consumer protection function is –

- (a) to notify the FCA where, in the exercise of its other functions, the single financial guidance body becomes aware of practices carried out by FCA- regulated persons (within the meaning of section 139A of the Financial Services and Markets Act 2000) which it considers to be detrimental to consumers, and
- (b) to consider the effect of unsolicited direct marketing on consumers of financial products and services, and, in particular –
  - 10 (i) from time to time publish an assessment of whether unsolicited direct marketing is, or may be, having a detrimental effect on consumers, and
  - (ii) advise the Secretary of State whether to make regulations under section (*Unsolicited direct marketing: other consumer financial products etc*) (unsolicited direct marketing: other consumer financial products etc).”

*[As an amendment to Commons Amendment 2]*

### LORD SHARKEY

2A Line 10, after second “time” insert “, and not less than once every two years,”

### After Clause 22

10 Insert the following new Clause –

#### “Unsolicited direct marketing: pensions

- (1) The Secretary of State may make regulations prohibiting unsolicited direct marketing relating to pensions.
- (2) The regulations may –
  - (a) make provision about when a communication is to be, or is not to be, treated as unsolicited;

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- (b) make provision for exceptions to the prohibition;
  - (c) confer functions on the Information Commissioner and on OFCOM (including conferring a discretion);
  - (d) apply (with or without modifications) provisions of the data protection legislation or the Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426) (including, in particular, provisions relating to enforcement).
- (3) The regulations may –
- (a) make different provision for different purposes;
  - (b) make different provision for different areas;
  - (c) make incidental, supplementary, consequential, transitional or saving provision.
- (4) Regulations under this section are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) If before the end of June in any year the Secretary of State has not made regulations under this section (whether or not in that year), the Secretary of State must –
- (a) publish a statement, by the end of July in that year, explaining why regulations have not been made and setting a timetable for making the regulations, and
  - (b) lay the statement before each House of Parliament.
- (7) In this section, “OFCOM” means the Office of Communications established by section 1 of the Office of Communications Act 2002.”

[As an amendment to Commons Amendment 10]

LORD SHARKEY

- 10A Line 14, at end insert –
- “(e) make provision for banning the use by any person of data obtained in contravention of the prohibition and determine the penalties for any such contravention.”

**After Clause 28**

- 21 Insert the following new Clause –
- “Cold calling about claims management services**
- (1) The Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426) are amended as follows.
  - (2) In regulation 21 (calls for direct marketing purposes), after paragraph (5) insert –
    - “(6) Paragraph (1) does not apply to a case falling within regulation 21A.”

(3) After regulation 21 insert—

**“21A Calls for direct marketing of claims management services**

- 13
- (1) A person must not use, or instigate the use of, a public electronic communications service to make unsolicited calls for the purposes of direct marketing in relation to claims management services except in the circumstances referred to in paragraph (2).
  - (2) Those circumstances are where the called line is that of a subscriber who has previously notified the caller that for the time being the subscriber consents to such calls being made by, or at the instigation of, the caller on that line.
  - (3) A subscriber must not permit the subscriber’s line to be used in contravention of paragraph (1).
  - (4) In this regulation, “claims management services” means the following services in relation to the making of a claim—
    - (a) advice;
    - (b) financial services or assistance;
    - (c) acting on behalf of, or representing, a person;
    - (d) the referral or introduction of one person to another;
    - (e) the making of inquiries.
  - (5) In paragraph (4), “claim” means a claim for compensation, restitution, repayment or any other remedy or relief in respect of loss or damage or in respect of an obligation, whether the claim is made or could be made—
    - (a) by way of legal proceedings,
    - (b) in accordance with a scheme of regulation (whether voluntary or compulsory), or
    - (c) in pursuance of a voluntary undertaking.”
  - (4) In regulation 24 (information to be provided for the purposes of regulations 19 to 21)—
    - (a) in the heading, for “, 20 and 21” substitute “to 21A”;
    - (b) in paragraph (1)(b), after “21” insert “or 21A”.

[As an amendment to Commons Amendment 21]

LORD SHARKEY

**21A** Line 13, after “services” insert “, and must not use, or instigate the use of, data so obtained,”

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*30 April 2018*

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