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GENERAL COMMITTEES

Public Bill Committee

FINANCIAL SERVICES (BANKING REFORM) BILL

Fifth Sitting

Tuesday 26 March 2013

(Morning)

CONTENTS

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Saturday 30 March 2013

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: †Mr Peter Bone, Mr Jim Hood, Dr William McCrea, Mr Andrew Turner

† Ashworth, Jonathan *(Leicester South)* (Lab)
† Clark, Greg *(Financial Secretary to the Treasury)*
† Doughty, Stephen *(Cardiff South and Penarth)* (Lab/Co-op)
† Durkan, Mark *(Foyle)* (SDLP)
† Evans, Graham *(Weaver Vale)* (Con)
† Hands, Greg *(Chelsea and Fulham)* (Con)
† Jamieson, Cathy *(Kilmarnock and Loudoun)* (Lab/Co-op)
† Leslie, Chris *(Nottingham East)* (Lab/Co-op)
† Mills, Nigel *(Amber Valley)* (Con)
† Morris, James *(Halesowen and Rowley Regis)* (Con)
† Mowat, David *(Warrington South)* (Con)
† Qureshi, Yasmin *(Bolton South East)* (Lab)
† Rees-Mogg, Jacob *(North East Somerset)* (Con)
† Sharma, Alok *(Reading West)* (Con)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Stevenson, John *(Carlisle)* (Con)
† Thornton, Mike *(Eastleigh)* (LD)
Williams, Stephen *(Bristol West)* (LD)
† Wright, David *(Telford)* (Lab)

Neil Caulfield, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 26 March 2013

(Morning)

[MR PETER BONE *in the Chair*]

Financial Services (Banking Reform) Bill

Clause 6

PRA ANNUAL REPORT

Question proposed, That the clause stand part of the Bill.

9.10 am

The Financial Secretary to the Treasury (Greg Clark): It is a delight to see you in the Chair, Mr Bone.

We have discussed the role of derivatives in the report. Proposed new section 142J will place an obligation on the Prudential Regulation Authority to make a full report to Parliament and the Treasury every five years on the ring-fencing rules.

Clause 6(2) lists the areas that will be covered. As we discussed on Thursday, they are set at a relatively high level. However, as I told the Committee then, the Government will consider the case for specifically mentioning derivatives when we debate the Bill in later stages.

Having listened to the Parliamentary Commission, we will now require annual reporting on ring-fencing. The report will be about the way in which ring-fenced bodies have complied with the rules and guidance and what steps the PRA has taken to enforce the ring fence. The clause will amend schedule 1ZB to the Financial Services and Markets Act 2000, to include a report on ring-fencing in the PRA's annual review.

The PRA's annual report will have to be laid before Parliament, which will give Parliament the chance to track from year to year the strength of the ring fence.

Chris Leslie (Nottingham East) (Lab/Co-op): Good morning, Mr Bone. It is always a pleasure to serve under your chairmanship. I have missed it; the last time was probably on another financial services Bill of some sort or another. I am glad to be back.

As the Minister set out, clause 6 gives the full detail of the reporting requirements that will be placed on the Prudential Regulation Authority. If we are to police the ring-fencing concept properly, it is important that we have a comprehensive and independent process of monitoring the compliance of particularly ring-fenced banks with the rules.

I have a number of questions for the Minister. I am assuming that, as well as the work of the ring-fenced banks, the PRA will be responsible for keeping track of how investment banks or associated investment banking activities in sister or parent companies interrelate with the ring-fenced banks. In other words, we will look not just at what goes on in the retail side of the bank, but at any attempts by investment banks to muscle into the business lines of the retail banks or to get involved with them. Are we talking about—this analogy is getting a bit ridiculous—policing both sides of the fence, rather than simply one side of it? How would that work?

The tests set out by the Minister are relatively clear. He has kept them fairly broad brush, rather than itemising certain aspects. As he knows, we are keen to include a specific reference to monitoring the derivatives' activities of retail banks. We will probably return to that issue on Report, hopefully with some, more detailed rules on the arrangements.

The PRA will be both enforcer of the rules and author of some of the criteria. We agree with the provisions in clause 6, which will also cover whether guidance notes and other reports have been taken to heart by retail banks.

When can we expect the first of such PRA publications to be made? I know that the PRA does not, theoretically, exist yet—it is only a matter of days—but will we have to wait a full calendar year? I assume we are waiting until after the Bill gets Royal Assent, because the requirements are not extant at present. However, before Royal Assent I would like to get a notion from the PRA, even in an informal context, that it will be working on those processes as soon as it gets cracking next week. It would be nice to know that in the financial year 2013-14 there will be some PRA commentary about the processes as we move towards the ring-fencing arrangements. I would be grateful if the Minister could clarify that matter.

9.15 am

I am quite sure that the Minister is able to satisfy the Committee that the PRA will have the necessary resources to monitor ring-fencing, but I am not sure whether there will be a particular division within it tasked with addressing that set of structural questions. We have heard the general description of micro-prudential regulation, which sounds great, if slightly opaque to the outside observer; however, what will that involve? Are we talking about a set of generalists within the PRA who will occasionally be tasked with looking at the structural questions, or will there be a standing unit specifically looking at the issues of safety and division?

Finally, when we get the PRA reports, what will be the process thereafter? Will there be opportunity for parliamentary debate? Will there be a written ministerial statement or other ministerial response reflecting on the PRA's findings? It would be useful to know what the answer will be to the "So what?" question when the PRA makes its reports. Those are the only issues that I have with clause 6 as it stands. *[Interruption.]*

The Chair: Graham Evans? No, he does not wish to speak.

It might be helpful to the Committee to remind officials and the Minister that they should not pass information directly to one another. That is a convention of the House.

Greg Clark: I was looking forward to a speech by my hon. Friend the Member for Weaver Vale, but we will hear it on another occasion, I am sure. I am happy to respond to the points made in the debate. I can confirm to the Committee that the duties of the PRA in respect of reporting on adherence to ring-fencing rules apply, in the terms that the hon. Member for Nottingham East used, to both sides of the ring fence, so they would apply to attempts by investment banks to breach the ring fence from that side. They apply to the totality of the ring fence.

As the hon. Gentleman said, the provisions in clause 6 are relatively high level, but we will certainly see what can be done to ensure that there are specific requirements on derivatives.

On the PRA's annual report, which is the subject of the clause, as the hon. Gentleman said, the PRA comes into effect in a few days' time, on 1 April, and its first report will be a year after that, in 2014. However, the requirement to report on the ring-fencing rules that the clause inserts will apply a year after those rules have been introduced, so the first report concerning the ring fence will be in 2019.

On the resources available to the PRA and its internal structures for monitoring, as the hon. Gentleman knows, the PRA is operationally independent and it is a matter for the PRA to structure itself the better to carry out its duties. All I will say is that, having moved towards the twin peak system of separating conduct and prudential regulation, our intention is that there be a much clearer focus on the prudential regulatory activities.

Chris Leslie: Obviously it is true that the PRA is independent, in a way, although it is under the careful wing of the Bank of England. However, it is important that we have some form of parliamentary insight into how adequately the regulators are able to do that particular job. It would be useful if, perhaps from 1 April onwards, the Minister could provide greater information about what the PRA structure will be, so that at least we would get a sense of the adequacy of the design of that regulator. Perhaps the Minister could send a note or—to use that horrible phrase—an organogram to Members about how the PRA will work.

Greg Clark: I am happy to suggest that to the PRA. I am sure it will not be shy in wanting to assure the public, and indeed Members of this House, that it is organised in a proper and effective way. The annual report, to which the hon. Gentleman referred, will be laid before Parliament. It will be published and deposited in the Library with a written ministerial statement attached to it. It is expected that the Select Committee will call the officers of the PRA to give evidence on its annual report. The Committee can scrutinise it in that way.

Whether or not the Committee has concerns about the PRA's operational effectiveness, it will have the opportunity to satisfy itself that the operation, as well as the rule-setting and policing side, of the PRA is adequately scrutinised. Arrangements are in place for the scrutiny of the PRA, which was much discussed in another Committee, no doubt chaired by Mr Bone, on the Financial Services and Markets Act. We are using those provisions, and the clause adds a further requirement to the reporting mechanism, which has been well scrutinised and is about to become operational—it will do so next month.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

Ring-fencing transfer schemes

Question proposed, That the clause stand part of the Bill.

Greg Clark: This clause gives effect to the schedule, which provides for ring-fencing transfer schemes. Such schemes allow a bank to transfer its business from one legal entity to another in order to comply with the ring fence. Currently, as we know, banks' activities are commingled. Ring-fencing is designed to separate out retail deposit-taking and trading in investments and place them in separate divisions. That could involve moving retail businesses out of the existing body, or it could involve moving investment businesses out, or possibly both, and creating new bodies, as we have discussed on previous occasions. It is up to the Bank to respond to the requirement to ring-fence. There are a number of ways in which it can do that.

Part 7 of FSMA provides a mechanism, which requires the approval of the court, for transferring all or part of the business of banks, without requiring the approval of all those affected. For example, part 7 would allow a deposit book to be transferred—in the case of a merger or takeover—from one institution to another without the approval of every depositor.

I do not know whether it is reasonable to comment on the schedule at this point, Mr Bone.

The Chair: Please keep it brief.

Greg Clark: I will keep it brief. The schedule adds another special case to the transfer scheme: a ring-fencing transfer scheme. It uses the established procedure, including opportunities for the regulator or anyone to make representations to the court, but it adds a veto to the PRA, which must approve an application to the court for a ring-fencing scheme. The PRA would be expected to use that veto if the move were incompatible with its new continuity objective to provide for the continuity of core services. For example, it could veto an artificial mix of business lines, which could mean that the business was unviable if separated.

Chris Leslie: With the leave of the Chair, I would like to talk about the schedule and the clause simultaneously. It is difficult because clause 7 facilitates the schedule to the Bill and we will be discussing an amendment to the schedule in the next group. It is slightly awkward when we have a clause that facilitates the schedule. The Minister set out quite helpfully what that schedule entailed. Obviously, the business transfer scheme arrangements are being changed to ensure that the ring-fencing provisions will be consistent with and can build on the existing rules.

I have some specific questions on the details of the ring-fencing transfer scheme that go beyond the amendment we are to discuss. The Minister said that the PRA would now have a set of powers to supervise the process. I shall be grateful if the Minister will set out the sort of questions the PRA will ask the transferee ahead of any court sanctioning arrangement.

I also ask the Minister to put an explanation on the record, for the sake of future circumstances in which this set of transfers might apply; it is difficult to envisage

[Chris Leslie]

what and when they might be. Will he reassure the Committee that a court-based transfer process is the right one? Moving to a legal and judicial context to oversee some of these transfer arrangements brings the advantages of independence and authority. However, there have been criticisms in other business transfer cases of the sometimes cumbersome, expensive and slow nature of a court process.

Given the inherent uncertainties and slowness of a court process, will the Minister reassure the Committee that he balanced other options for transfer arrangements, and explain why the court arrangement is considered the right one? Perhaps he could also reassure the Committee about the duration of the process. Given the centrality of banking and the retail banking system to the economy and many consumers, a long-drawn-out process might cause anxieties in the market and beyond.

What factors have been taken into account when considering risk representations from people who might claim that they are suffering an adverse effect from a transfer? How will those be made in a court process? Those are some of the concerns. I can imagine a transfer process going on and a lot of people having concerns. Are they all expected to be represented in court, or will there be some other facility for those representations to be made? I assume that that would be through the PRA, as a conduit towards the court process. However, it would be useful to get a sense of those arrangements.

My final question on the schedule is how will the operation of reclaiming funds change under the reforms? The Minister will be aware that in recent years there have been a number of changes to the dormant bank account arrangements. If retail banking services are being transferred from one institution to a brand new one, individuals may discover years later that they have dormant accounts and wish to go through the reclaiming process. That would be a key downstream consequence of any transfer arrangement. It would be useful for the Minister to set out how that particular transfer scheme will not necessarily cut across the rights of long-standing account holders to go through a reclaim process for dormant funds in banks or building societies that might be subject to transferred arrangements.

Greg Clark: The hon. Gentleman raises the criteria that the PRA might consider in exercising its veto. Consistent with the establishment of the PRA as a body with broad powers to scan the radar for risks to financial stability in the UK banking system, the provision has been drafted not to be too prescriptive and to identify very particular grounds on which the PRA might object to a proposed ring-fencing transfer scheme. I think that that is the right approach.

9.30 am

We have debated the innovative capacity and tendency of the banking sector in this Committee, as have Members on the Floor of the House, and it is an issue to which these concerns particularly apply. That is one of the reasons for the PRA veto. It would be of concern if some novel device were proposed that affected the future contribution of the bank to financial stability. So the right approach is to enable the PRA to assess each scheme on its merits and to make, as it were, a bespoke assessment of whether any features of the scheme would contribute to financial instability, rather than to constrain it in anticipation of certain grounds that may be sensible now but could be overtaken by events.

I have given the example that, given that the point of ring-fencing is to allow the continuity of services, it is conceivably and theoretically possible for a bank to put into a ring fence such a mix of business lines that the organisation would not actually be viable, free-standing and independent. That is a matter of judgment on the part of the PRA, which has the ability to exercise such judgment under the clause.

We chose to use the courts to facilitate the transfer process, in order to use as far as possible the existing provisions of FSMA. As the hon. Gentleman knows, many, if not most, of the provisions in the Bill are amendments to FSMA. Clause 7 is such a provision. There is an established procedure for changing arrangements in banks by application to the courts. That has worked relatively successfully since it came into effect in the 2000 Act; there have been no particular concerns.

The courts have the ability to take into account the potential consequences for third parties—be they depositors or people who may be exposed to other parts of the bank's activities. One of the advantages of the courts determining such matters, rather than the regulator, is that anyone affected by the consequences of transfer can make representations to and be heard in court. That procedure has been successful to date. There is of course an additional route—people can make representations to the PRA. That is a second way in which they can make any concerns known.

Quite apart from the pragmatic reason for using provisions that are currently available and have been tried and tested, there is an important reason of principle. These matters may affect the property rights of individuals in terms of where their money is held. It could be transferred from one body that they have chosen to invest in to another. So it is reasonable that, given the engagement of such property rights, the courts should be the final arbiter of such matters. In assessing claims, the courts can hear representations where individuals feel that they have been unreasonably affected by the provisions. Part 7 of FSMA is designed to minimise vexatious claims, and third parties need to give notice to the courts of their proposed representations. As I said, it has proved to be a reasonably effective regime to date.

Chris Leslie: Will the Minister deal with the point about how dormant accounts will be treated? I would be grateful if he could elaborate.

Greg Clark: Given the use of FSMA, the arrangements for dormant accounts are provided for in the regulations. The rights of account holders, whether the accounts are active or dormant, will continue in exactly the same way as they do now and the right to access to accounts, should the holders discover that they exist in future years, will be preserved.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Schedule

RING-FENCING TRANSFER SCHEMES

Chris Leslie: I beg to move amendment 29, in the schedule, page 24, line 9 at end insert—

'( ) After subsection (3) insert—

(4) Without prejudice to the generality of subsection (3), in the case of a ring-fencing transfer scheme the court must not make an order sanctioning the scheme if it considers that it might lead to the dissolution of a company or to the transfer of liabilities owed to any persons in a manner that may prejudice the interests of those persons.".'.

I do not think I will shock Members by saying that the concepts in the schedule seem rather dry. After the events in Cyprus and elsewhere, however, bank transfer schemes suddenly become quite interesting and relevant, so it is worth spending a little time discussing the issues. I do not want to go through the details of the schedule, because most of my questions have been satisfied, but the Parliamentary Commission on Banking Standards specifically suggested that an amendment was required. Under section 111 of FSMA, the court may make an order sanctioning the transfer scheme if certain conditions are satisfied, including that the appropriate certificates have been obtained and any authorisations required are in place. In addition, subsection (3) says:

"The court must consider that, in all the circumstances of the case, it is appropriate to sanction the scheme."

Amendment 29, which was drafted by the Commission, would require an additional condition to be satisfied before the court sanctioned a ring-fencing transfer scheme. The amendment would prevent courts from making sanctioning orders that

"might lead to the dissolution of a company or to the transfer of liabilities owed to any persons in a manner that may prejudice the interests of those persons."

What does that mean? It would implement paragraph 230 of the Commission's first report, which states that safeguards are needed to prevent the creation of the ring fence from being

"used as an opportunity to shift liabilities…in an artificial way."

The Commission felt that such safeguards were needed because the liability for conduct before the split would remain with the legal entity, which was responsible for the conduct in question. Therefore, if a company with outstanding liabilities was dissolved during the division into a ring-fenced or non-ring-fenced set of bodies, the liabilities might also be dissolved with it. It would be a bit like trying to pursue a double glazing or car sales company that had gone into administration; the rights of consumers to pursue a problem would be affected.

Many people have voiced concerns about such problems in a consumer context, but the liabilities of a retail bank that disappeared or was transferred might be similarly affected, so the Commission thought that it was important to establish this process. If new companies are created, they will be free from the outstanding liabilities of the company of which they were previously part. The amendment would guard against banks using opportunistic tactics during the creation of the ring fence by preventing the court from sanctioning any ring-fencing transfer scheme that posed such risks. When banks implement the ring fence, they will almost certainly require the courts to sanction the scheme, so limiting the circumstances in which the sanctioning orders can be made would ensure that banks did not use the implementation of the ring fence as a smokescreen for avoiding or shifting their outstanding liabilities.

In recent times, considerable liabilities have fallen on some of the ring-fenced banks, for example, as a result of the mis-selling scandals. In such cases—whether it is to do with the mis-selling of interest rate hedging swap products or payment protection insurance—persons who have conducted business with those banks may be due compensation, which in some cases may be significant. Because outstanding liabilities may be large, it is important that the Commission had an opportunity to raise that point, and I would be grateful if the Minister would address it.

Greg Clark: The Commission and its representative on earth, or at least in the Committee, make a series of reasonable points. As we have discussed, the schedule relates to the powers of the higher courts to sanction a ring-fencing transfer scheme under section 111 of FSMA. To remind the Committee of the process, the company—the bank, in this case—initiates the procedure. The transfer scheme allows a bank to transfer a business, or part of a business, to another entity with the approval of the court. Any application to the court for the approval of a ring fence transfer scheme must first be approved by the regulator; in this case, that would be the PRA.

The amendment proposed would prevent the court from sanctioning a transfer scheme if it thinks that that scheme could lead to either the dissolution of a company—a bank, in this case—or the transfer of liabilities in a way that prejudices its creditors' interests. The hon. Gentleman is absolutely right that that must not provide an opportunity for a bank to avail itself of the ring-fencing rules to evade the responsibilities that might follow from past misconduct. In recent weeks and months we have seen examples of historic misconduct that quite rightly entails compensation and redress for those who suffered as a result of that, and it would be a perverse consequence if a move to introduce more rigour into banking standards were to give an opportunity to banks to shirk those responsibilities.

The Government's view is that the safeguards that we have put in place should address that. I will outline those which are in the Bill already. First, the PRA's consent is needed, and the expectation is that the PRA would refuse to sanction any scheme that was about artificially evading a bank's responsibilities rather than a genuine implementation of the ring-fencing rules. Secondly, anyone who is adversely affected—whether creditors or, for these purposes, the mis-sold—is entitled to participate in the court proceedings. The court may approve an application only if it considers that application appropriate. It is not a rubber-stamping exercise; the court's scrutiny is to determine whether the proposal is appropriate, so the court could refuse the scheme if it were to conclude that it was artificially avoiding liabilities, as that would clearly not be appropriate.

The amendment as proposed, notwithstanding the obvious good sense of its intent, has a couple of flaws. First, it would prevent the court from sanctioning a ring-fencing scheme if it involved the dissolution of a company; it makes it clear that

"the court must not make an order sanctioning the scheme if it considers that it might lead to the dissolution of a company".

It is not always the case that the dissolution of a company would be prejudicial to the interests of depositors or creditors; it may be appropriate as a tidying-up exercise in a complex, multifaceted group to set up a company to close down permanently certain subsidiaries,

[Greg Clark]

so an unintended consequence of the amendment is that it would be excessively restrictive in cases such as that.

Secondly, there is a lack of clarity about what "prejudice the interests" means. We would need to consider whether that meant mere inconvenience: it could be that some depositors might find it inconvenient to have to move from a branch a few doors away from their home or business to one a few streets away, but we would need to be clear that the prejudice in question is meant in a more substantial sense than that.

I say to the hon. Gentleman that we have no difficulty with the point that he and the Parliamentary Commission make about being sure that the mechanism is not used to evade the continuing responsibilities that banks have to their customers, past and present. There are a number of ways in which we can reflect on whether we can be even clearer that the safeguards are there. It could be that the PRA, for example, is invited to consider these matters explicitly when it makes its assessment of whether a scheme should be sanctioned. It could be that there are different variants around this. If the hon. Gentleman is prepared to withdraw the amendment, then later in the Bill proceedings we will consider how what is very much an agreed objective between the parties and the PCBS can be made absolutely clear and unambiguous.

9.45 am

Chris Leslie: The Minister has been helpful in responding thoughtfully to the points that the Commission made on this issue. He set out in an important way that he felt there are a number of safeguards to prevent the unfair shirking of these liabilities, and the PRA will act as some sort of guardian on these matters. He also said that the victims of mis-selling and the creditors will be able to participate in court proceedings. I know that is the case, but the Minister will forgive me if my heart sinks when I hear that that is a possible option. In reality, for a lot of consumers that is not a viable route for them to use. It is true that there are a number of safeguards in the current wording of the Bill, such as the appropriate choices that the courts might make. However, those safeguards are not as tight as they could be.

I very much welcome the Minister's commitment to reflect on the points that the Commission made. He made a fair point about the drafting of the amendment when he said that we need to elaborate on what we mean by the prejudicing of certain interests. I hope the Minister will come back at another opportunity with a way of tweaking these provisions. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule agreed to.

Clause 8

BUILDING SOCIETIES: POWER TO MAKE PROVISION ABOUT RING-FENCING

Question proposed, That the clause stand part of the Bill.

Greg Clark: As we know, the principal reforms in the Bill are not directed at building societies. However, building societies should not be exempt from the restrictions that a ring fence would propose. Currently, the restrictions on building societies in the legislation that applies to them are analogous to those that apply to ring-fenced banks. There is a danger that if building societies fall within the scope of the Bill they will be obliged to comply with two bodies of legislation that broadly have the same intent. If we are to avoid having two sets of primary legislation we would have to repeal the Building Societies Act 1986, ring-fence building societies and remove the special nature and recognition that they currently have.

The answer to the conundrum posed in policy terms by the introduction of these banking reforms is, as we propose, to exempt building societies from the ring-fencing rules. To ensure a level playing field, clause 8 gives the Government the power to amend, via statutory instrument, the legislation that currently applies to building societies to bring them into line with the ring-fencing rules for banks. We will publish the consultation that will give effect to these provisions, including the draft statutory instrument, over the summer for a full public consultation. The approach that we have set out has been much reflected on and consulted on during all the stages of consultation on the Bill and the draft Bill. It has been warmly endorsed by the Building Societies Association. So it is a pragmatic solution to a particular problem.

Cathy Jamieson (Kilmarnock and Loudoun) (Lab/Co-op): It is a pleasure to serve under your chairmanship again this morning, Mr Bone, and to be able to make a few comments about clause 8. As the Minister outlined, it deals with the treatment of building societies as far as ring-fencing regulations go. It is important that he put on the record the Government's desire to solve what he described as the conundrum of having different sets of legislation to comply with and the need for a level playing field. That has been welcomed by the building society sector. As he explained and as the explanatory notes outline in some detail, building societies are excluded from the definition of ring-fenced bodies because they already operate under the significant restrictions of the Building Societies Act 1986.

Under current rules, 50% of a building society's funding should be in the form of retail deposits and 75% of lending must be secured on residential property. That gives them their particular significance and there is concern that that may change. We are not entirely clear what the Government intend to do following the publication in 2012 of the Treasury consultation on the future of building societies. I will come back to a couple of questions around that. Clause 8 aligns the reform for building societies to that which will apply to ring-fenced banks under part 9B of FSMA. Building societies and ring-fenced retail banks will be treated in broadly the same way. That is the right and proper thing to do.

We know the importance of building societies and the wider mutual sector to the economy. Building societies in particular form a vital part of our UK financial services sector. Mutual lenders and deposit takers have total assets of more than £375 billion and, together with their subsidiaries, hold residential mortgages of £245 billion. Building societies are often the very organisations that have worked closely with local communities and with people to ensure that they get a start on the housing ladder. They hold more than £250 billion of retail deposits and that accounts for more than a fifth of all such deposits in the UK. Some 50,000 people work full and part time for building societies in approximately 2,000 branches, which shows their spread. Building societies have been able to continue in many instances with those high street branches. They have largely proved to be prudent and sustainable. Only one building society needed Government support during the financial crisis when in March 2009 the Treasury dealt with the issues surrounding the Dunfermline building society. The Nationwide went on to buy all Dunfermline's branches, good loans and deposits.

I welcome what the Minister said about publishing a consultation and draft legislation over the course of the summer on this issue. How will that sit in the context of any wider action that may come from the Government following the commitment that was given in the coalition agreement:

"We will bring forward detailed proposals to foster diversity in financial services, promote mutuals and create a more competitive banking industry"?

While the Minister is doing something about tidying up the process in relation to building societies, we are still rather unclear about what the Government's intentions are following the consultation that took place on the Building Societies Act 1986. He may be able to tell us more about that.

My other question may be also be covered by the consultation in the summer. What new functions relating to building societies are likely to be handed to the Financial Conduct Authority or the PRA? Those are some technical points that are covered in the clause. In general I have no difficulty with the clause and, as I said, it has been welcomed. But it would be useful to have some of those points on the record, so that we can be clearer about what the Government intend to bring forward and how that relates to the Bill.

Greg Clark: I am glad that we have the support of the hon. Lady on how we intend to proceed on this. She is right that we want to see a greater diversity of competition in the sector. The provision of financial services has become far too concentrated as a result of the crisis and we want to see an expansion of the market share of smaller players, particularly building societies and mutuals. I will address some of the ways that that is already being carried out.

First, the hon. Lady will know that the Financial Services Authority has been conducting a review on the barriers to entry for the authorisation of new banks. It has introduced a new system and committed to recognising the special circumstances and improving some of the aspects of financial resilience that come naturally to institutions with a longer pedigree. If the risk, particularly the systemic risk, is low from the start, that should be taken into account.

When we consider the new clauses, we will have the opportunity to discuss some further measures that the Government propose to table. We will shortly publish a consultation on the changes to payment systems. Those changes will allow access to the payments systems for those who are outside the magic circle of firms that control access to them. There will be an opportunity for those concerned to contribute to that consultation.

We are keen—I made this point at the beginning—to take the views not only of the Parliamentary Commission but of the House, both in Committee and at later stages of the Bill, on how we can further reinforce our determination to drive competition in the banking sector. That includes building societies.

The PRA and the FCA are required to make a specific assessment of the proposed rules on mutual societies. We recognise that although mutuals compete and operate in the same spaces as banks, they are from a different tradition. Their capital requirements and operations are different. The provision will ensure that the regulators will not unintentionally disadvantage mutual firms when creating rules. It will also build up an evidence base that can be used to ensure that mutuals are treated appropriately in the regulatory system. The regulatory principle of proportionality also applies in this regard. If regulators are taking action that impacts one firm more than another, it should be done only on the basis that it is proportionate to each of those firms.

As part of the consultation on this part of the Bill, we will be open to suggestions from the building society movement and depositors and lenders from building societies. We will consider, both through that consultation and anything that is suggested by the Parliamentary Commission or the House, whether any further legislative change is needed, including within the Bill, which is a vehicle for that. What we have introduced in the Bill meets the requirements set out by most people in the sector by ensuring that the sector is treated fairly and properly while recognising its distinct characteristics. As I have said, we are happy to consider further legislative steps if they are needed.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clause 9

Preferential debts: Great Britain

10 am

Chris Leslie: I beg to move amendment 7, in clause 9, page 15, line 25, at end insert—

'*Category 8: Deposits of charitable bodies*

15D Any amount owed at the relevant date by the debtor in respect of deposits made by charitable bodies up to the amount of nine tenths of the amount owed to the persons to whom the amount is owed.

Interpretation for category 8

15E (1) In paragraph 15D "charitable body" means any organisation with charitable status under section 1 of the Charities Act 2006.

(2) For this purpose a "deposit" means rights of the kind described in—

(a) paragraph 22 of Schedule 2 to the Financial Services and Markets Act 2000 (deposits), or

(b) section 1(2)(b) of the Dormant Bank and Building Society Accounts Act 2008.'.

The Chair: With this it will be convenient to discuss the following:

Amendment 8, in clause 9, page 15, line 35, after 'Financial Services Compensation Scheme', insert 'and deposits of charitable bodies'.

[The Chair]

Amendment 9, in clause 9, page 15, line 36, at end insert—

'Deposits of charitable bodies

'(6C) Any amount owed at the relevant date by the debtor in respect of deposits made by charitable bodies up to the amount of nine tenths of the amount owed to the persons to whom the amount is owed.'.

Chris Leslie: Given international events, clause 9 has suddenly become significant. Amendments 7, 8 and 9 were tabled before we heard about the Cypriot crisis in any great detail, but they provide an opportunity to ask what would happen in the event of bank insolvency, especially to depositors. The amendments are probing and seek to tease out the Government's thinking about the impact on charities that are depositors in banks that may become insolvent. We will discuss why banks have preferential creditors in the clause stand part debate.

Many charities in this country painstakingly raise funds from their supporters, benefactors and donors, but they do not keep those funds stashed away in a safe at the back of the office. They trust them to the banks for safekeeping. Imagine the thoughts going through the minds of trustees of charities of Cyprus, where, as I understand it, if they have deposits of over €100,000—they may not be classed as individual depositors at all and even that first €100,000 may not be safe—they may find that, with the swipe of the pen of the Eurogroup of Finance Ministers, all their hard efforts were for absolutely nothing. We must think through the consequences of what would happen in this far larger country with far larger charities. There would be many significant downstream consequences.

Amendment 7 is perhaps the best actively to show how one solution could be pursued. It is only one solution, but I shall be grateful if the Minister will give us some reflections on it. The clause amends the schedule to the Insolvency Act 1986 that sets out the ranking of various categories of creditors in the event of insolvency. The taxman obviously comes pretty high up in that list—that will not be a surprise to hon. Members—and there is a pecking order for the scramble of creditors trying to get the remaining resources and assets. Amendment 7 would give a measure of specific protection to the charities.

We need to protect charities' deposits when constructing this new financial architecture. We should not allow such deposits, which may have been built up over decades, simply to be flushed away if a bank fails. According to the submission to the Parliamentary Commission on Banking Standards from the Charity Finance Group, the charity sector in this country holds some £18 billion in cash deposits. The amendments would include charities' deposits under the deposit insurance scheme known as the Financial Services Compensation Scheme.

Amendment 7 represents the meat of the changes. Amendments 8 and 9 are consequential and relate to the Bankruptcy (Scotland) Act 1985. The amendments probe what might be the right solution. We picked up the position that was the case under the Financial Services Compensation Scheme up until 2007. At first, 100% of deposits were covered up to £2,000 and 90% of deposits up to £33,000. Those were the old rules. By extension, we are asking what would be the case if there were a 90% protection regime for charities' deposits. On reflection, particularly in the light of Cyprus, we should have tabled a parallel amendment that would have protected 100% of charities' deposits. That would also be a reasonable suggestion. I am not sure that even a 10% haircut for charities would be acceptable.

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): It is a pleasure to serve under your chairmanship for the first time, Mr Bone. My hon. Friend makes a strong point and I am interested to know the Minister's views. As the Committee is aware, I was previously head of Oxfam Cymru and had a career in the charity sector. There will be great concern about the clause, particularly in the light of the Cyprus example. I hope we would never get to that situation in this country, but it is important to have adequate safeguards in place.

It is also important to be aware, as my hon. Friend might not be, that a number of British charities often hold substantial amounts of funds transferred from the UK Government before they transfer them to overseas projects, in the case of the international development sector. Funds of possibly hundreds of millions of pounds could be put at substantial risk.

Chris Leslie: I am grateful to my hon. Friend who has a lot of experience in this field. Any further observations would be useful. His point that charities often hold public funds in trust is key. As the Charity Finance Group said in its written submission to the Parliamentary Commission:

"Charities have a unique set of requirements when it comes to banking. Their funding structure, public benefit function and activities all mean that they bank differently from other classes of customer (for example, individuals and businesses), however the protections in place for charities (i.e. Financial Services Compensation Scheme coverage) does not recognise the distinctive nature of charity banking.

In the period following the crisis it became apparent that there was a clear gulf between charities' exposure to risk and capacity to manage it, and their level of protection. This was also acknowledged by the Treasury Select Committee during their inquiry into the banking crisis."

There is sometimes a cold attitude from the authorities when they say to institutions, particularly to businesses but also implicitly to charities, "If you are an institution you should simply know whether a bank is safe or not. You should do due diligence; you should not just trust that banks are naturally safe." Some smaller charities could easily have sums above the FSCS level and may not be protected. It would help if the Minister could clarify that point. It is not reasonable for them to make a financial judgment about whether a bank is likely to go under and what individual insurance arrangements they should make for those circumstances.

Cathy Jamieson: Does my hon. Friend share my concern, also expressed by the Charity Finance Group, the National Council for Voluntary Organisations and the Association of Chief Executives of Voluntary Organisations? In the context my hon. Friend describes, charities will find themselves, as outlined in the CFG's submission on banking reform, having to follow

"more conservative banking practices and deposit in those banks deemed lower risk, which typically pay a much lower deposit rate".

That will mean that the income available to charities will decrease over time.

Chris Leslie: We debated on another clause whether ring-fenced retail banks might find themselves in a low-return environment compared with investment banks. That leads to another facet about charities that might be tempted to invest their money outside the ring fence. We have a waiver for high net worth individuals. I am not sure what waiver protections exist for charities and their trustees, to ensure that, if they venture outside the ring fence, there is some process by which they have to prove that they have considered those risks. It would again be useful if the Government could reflect on those points.

The Parliamentary Commission on Banking Standards considered

> "the Treasury's case that all non-insured creditors, including charities and small businesses and temporary high deposits of households, would be treated alike in the event of failure".

The Commission found that case "unconvincing".

The depositor preference principle laid out in the Bill fails to recognise the unique position of charities. In fact, it increases risk by pushing them further down the creditor hierarchy, because the Bill would include recompense for the FSCS essentially in that process. There is the irony of potentially increased risk. Our proposed solution would grant charities preferred creditor status, so that charity deposits would rank alongside those of the FSCS in the event of bank failure.

I would not claim that the amendment is perfectly formed. There is room for improvement—certainly, the level of reclaim is open for debate. However, it would be better than a 0% ability to reclaim.

The PCBS recommended that

> "the Government and Bank of England establish a joint group to prepare and publish a full report on the implications for resolution of depositor preference and of the scope and extent of depositor insurance."

That would be good as far as it goes, but I am not sure that it goes quite far enough. The PCBS also said:

> "This report should, in particular, consider the feasibility of establishing a voluntary scheme of insurance for deposits over £85,000 with arrangements for opt-out. This report should be published at least two weeks before the House of Commons report stage of the Bill."

I am grateful to the PCBS for its recommendation. It certainly helps to inform the debate, particularly now that the international spotlight is being shone on such questions. British charities were hit by the collapse of the Icelandic banking system in 2008. Surely we have to learn from those events.

In the UK, there are at least 5,700 charities with cash assets of more than £85,000, so it is a big issue here. Today, Britain's charities are under significant pressures elsewhere: declining Government grants, higher overhead costs and knock-on effects of donors facing higher living costs. The Prime Minister used to talk about the big society—admittedly slightly less so these days—but it would be important for the Government to rediscover some of those principles and take specific action in the Bill. We could do that on an all-party basis, which would be welcome to the charity sector, showing that we are thinking about the sector's potential situation in the event of a banking insolvency. It would be an important step to take, and I would be grateful if the Committee could support the spirit in which we have tabled the amendments.

Jacob Rees-Mogg (North East Somerset) (Con): It is a pleasure, as always, to serve under your chairmanship, Mr Bone.

We should treat the amendments with caution, because not all charities are small charities that creep over the £85,000 limit. In my business career, I have managed the funds of multi-billion-pound charities. They are sophisticated investors who do not need or want such protection. If they are too heavily protected, they may find that they cannot run their investment management side as effectively as they would want to the long-term benefit of their charity. If they are to be given an almost complete protection on deposits, there will in return probably be restrictions on the deposits that they can make. We should be careful about lumping all charities together. If such an amendment were to be made, we might want a higher rather than an unlimited threshold.

The second reason to be cautious of the amendments—I may simply have been in the City too long—is that, in the few minutes that we have been discussing the amendment, I have been trying to think of a financial instrument that a charity could issue to a non-charitable body that it could deposit with a bank, to be covered by the ring fence, which it would then place with the most dubious ring-fenced bank, paying the highest rate of interest, to take a share of the revenue for the charity and make a guaranteed profit for the person who buys the financial instrument. I see that my hon. Friend the Member for Chelsea and Fulham is looking interested in devising such a product. The two of us, from our professional careers, find such things extremely interesting. There are always possibilities of that kind; it is the law of unintended consequences.

I am not unsympathetic to the amendments, but if they are to be adopted, large charities need to be able to carry on with the financial activities that lead to profit for them and allow more good causes to be undertaken. We also need to bear in mind that whenever the Government provide a protection, some clever person—or some not-so-clever person—will think up a scheme to use it in a way that was never intended.

10.15 am

Stephen Doughty: The hon. Member for North East Somerset has made some important points, which are worthy of significant consideration. This issue clearly has to be looked at very carefully. My hon. Friend the Member for Nottingham East has made clear that the amendment is not necessarily perfect and would need to be looked at in detail, but he made some important points about exposure, the ability to manage and that differentiation in the charity sector as a whole. He mentioned the example of Iceland and Icesave, which is an important one; I recall being in Oxfam at that time and having a number of conversations with others in the sector who were deeply worried. The situation came upon many people as a great surprise, and people were running around and saying, "Do we have investments there? Are there things we should be worried about that we were not even aware of?"

Nevertheless, following on from the points made by the hon. Member for North East Somerset, it is worth remembering that a number of larger charities have systems in place to guard against risks. Those that operate internationally, in particular, have fairly extensive

[Stephen Doughty]

exchange rate hedging agreements. Charities take their fiduciary responsibilities seriously, particularly with regard to donor moneys. However, there is a differentiation in the sector, and in my experience of dealing with sub-grantees, with which the larger charities often operate in partnerships, they simply do not have the capacity, knowledge or awareness to make sure that they are hedging against all the risks. That creates challenges, particularly when sub-grantees also then take on significant contractual obligations to the ultimate donor, whether that be Government or a body such as the Big Lottery Fund, Comic Relief or other public funds that grant to larger charities, which then grant on to smaller organisations to deliver on the charitable objectives. That is before we think of moneys coming in from the public, which can often be significant, particularly in the case of high net worth individuals making bequests or other generous donations.

I would be interested to hear from the Minister how he and the Government will respond to the challenges, given that differentiated sector and the different levels of capacity and experience that exist to deal with this issue. Will they ensure that risks are looked at in quite careful detail at all levels of the system, so that we do not have a repeat of the Icesave example and others, which caused significant challenges to a number of charities both medium-sized and small, as well as to local authorities and others that I mentioned in previous contributions?

Some important points have been made. The amendments might not be perfect, but they hit on an important point, and I hope that the Committee gives them due consideration.

Greg Clark: It has been a useful debate on an important matter, which is the more topical given the events going on in Cyprus as we speak. No one could be anything other than sympathetic to the concerns the whole Committee has about making sure that funds that have been subscribed by ordinary working people up and down the country are not lost somehow in the event of bank failure. The issue is germane not just to this discussion but to the one I hope we will have later today about bail-in provisions; it is not depositors—whether charities or individuals—who would be in line to bail out failing banks in this way.

Let me set out the context for why the Government have proposed the particular approach to depositor preference that we have, and then deal with some of the points that have been made. The amendment would make the first 90% of charities' deposits preferred debts in bank insolvency creditor hierarchies. The purpose of the clause is, in effect, to align the deposits covered by the Financial Services Compensations Scheme with preferential debts in the hierarchy. It is designed to introduce consistency between the compensation scheme and the treatment in the hierarchy.

The context is important. I remind the Committee that this is, in essence, a zero-sum game. In the event of a bank insolvency, there is no extra money that could be found. Depositor preference is about distribution of risk. The more one group is protected, the less protection there is for another. Whatever the Committee and the House ultimately decide, as we have seen in Cyprus, it is important to be clear in advance as to what would happen, so that people can make decisions on that basis rather than there being uncertainty as to what the consequences would be for depositors of all sorts. The fact that measures to that end are in the Bill and are being debated is important.

The recommendation of the independent Vickers Commission was that FSCS-covered deposits—that is to say, insured deposits—should be preferred, but not others. As the hon. Gentleman mentioned, the Parliamentary Commission looked at this again and was not able to come to any definitive conclusion, reflecting the difficulty of the choices it made. It recommends having a joint study group. We note that recommendation and will reflect on it. In some ways it points to the difficulty of the issue when such a distinguished and experienced body of people as the Parliamentary Commission did not feel able, even through one of the sub-committees set up to investigate different matters, to come to a firm response on this.

Why would the approach recommended in the amendment—to insert charities into the hierarchy alongside the preferred depositors in the Financial Services Compensation Scheme—have drawbacks? First, one of the principal purposes of the Bill, which comes straight out of Sir John Vickers's recommendations, is to protect the taxpayer—the ordinary working people of this country—from the costs of bank failure. Insured deposits are guaranteed by the FSCS. It pays out immediately to insured depositors and then takes on their claims as creditors of a failed bank.

What happens if there is a shortfall in the recoveries? The FSCS levies other, well run banks. It is important to reflect that doing that can be a source of potential contagion. It can impose risk and costs on other banks' creditors and depositors. The liabilities have to go somewhere. That may be on perfectly reasonable grounds, as set out in terms of the establishment of the FSCS, but we should remind ourselves that it means other banks with other customers and other depositors being exposed to that risk. In circumstances in which the FSCS cannot pay immediately, or perhaps ultimately, the taxpayer bears the contingent liability. The Bill is designed to protect the taxpayer from the consequences of bank failure that were evident in the past, so there are strong reasons to align precisely the terms of the FSCS and the depositor protection preference category.

Having done that, should we include charities? Moreover, should they be included in the FSCS? If we want to maintain consistency, perhaps a clearer and more consistent way of doing it would be to address whether they should be part of the depositor hierarchy. That gives rise to a debate that we have started to have in the Committee about whether depositor preference should be extended to good causes. Good causes certainly include charities but are not limited to them. For example, schools, hospitals, local authorities, medium-sized businesses that are important for the community and private sector pensions into which people have paid are all sources of funds that could constitute good causes in no lesser way than charities. The trouble is that if everyone is prioritised, no one is prioritised.

We need to make some decisions here. It could give rise to some difficult consequences if we drew the line at charities, no more and no less. If charities were to be included, the deposits held by a private and independent prep school could be included, whereas the reserves held by a state primary school would be excluded. I think most people would consider that to be anomalous. As my hon. Friend the Member for North East Somerset pointed out, the vast majority of charities are covered under the FSCS at the moment. About 1.8% of charities are not eligible for any FSCS protection on account of their size. In total, some 3.5% would have deposits above the £85,000 limit. It is important that our constituents, who—you never know—might be reading this debate, are reassured that the vast majority of charities' deposits are already covered under the Financial Services Compensation Scheme under the Bill, and that it is recommended that they will enjoy the protection of that scheme.

Chris Leslie: I would be grateful if the Minister clarified something. Forgive me for my lack of familiarity with the particular terms of the Financial Services Compensation Scheme, but I think that he is saying that charities, and presumably therefore all depositors, including businesses, schools or others, are covered up to that £85,000 level, or is it only individuals who are covered up to that limit?

Greg Clark: The hon. Gentleman raises an apposite point. The current coverage of the Financial Services Compensation Scheme is for individuals whose deposits are protected up to £85,000, and for small organisations—he will want to know the definition, which has come up previously in Committee—that meet at least two of the following conditions: they should have a turnover of less £6.5 million per annum; they should have fewer than 50 employees; and their balance sheet should be less than £3.26 million. Those are the current criteria. The scheme is limited to small organisations and individuals.

Having said that, the hon. Gentleman will be aware that the terms of the Financial Services Compensation Scheme have changed from time to time. He noted that before 1 October 2007, the total limit was £31,700, with 100% protection of the first £2,000 and 90% of the next £33,000. That increased between October 2007 and October 2008 to 100% of the first £35,000. Between October 2008 and 2010, it increased to 100% of the first £50,000, before being aligned with the European standard of 100% of the first €100,000—or £85,000—of deposits. Measures are being debated in Europe to extend some of the categories of coverage of the European standard, which may address some concerns and about which I will say more in a moment.

It is important to send a message to charities in this country that the vast majority of them are covered by the existing arrangements. Only 1.8% of charities fall outside the size threshold for organisations and only 3.5% fall outside the criteria for deposits over £85,000. We are therefore dealing with a small minority of charities. As my hon. Friend the Member for North East Somerset said, some charities are organisations of sophisticated financial expertise, which is quite right given the extent of the deposits that they control and of their financial resources. For all the reasons that the hon. Members for Nottingham East and for Kilmarnock and Loudoun gave about charities getting the best returns for their investments, if they are sophisticated, well run and have the financial acumen and advice to make with clear sight investments that may entail a degree of judicious risk, they should not be prevented from doing that. The ring-fencing rules provide that charities with sophisticated individuals can invest outside ring-fenced bodies. Indeed, charities with a gross income of more than £6.5 million will be able to bank outside the ring fence, which reflects those matters.

10.30 am

One would not want inadvertently to constrain charities who make good returns for their beneficiaries through having built up, over time, an impressive track record of sophisticated investment management. That is not the intention here.

Chris Leslie: The Minister has been generous in giving way. To be clear, would it be possible for charities with less than a £6.5 million turnover to bank outside the ring fence, or would they be prevented from doing so? I am worried that there may need to be a waiver provision for charity trustees, if they are to venture into those slightly riskier banking environments, to make sure that they are fully aware of what they are doing with their members' funds.

Greg Clark: Just to clarify, if charities do not have a turnover above £6.5 million, they are required to stay within the ring fence. As in the discussions that we had on sophisticated high net worth individuals, if they are below that amount, they are assumed to be—in a non-pejorative way—unsophisticated and are required to keep their deposits within the ring fence. That is the state of affairs.

It is sensible to align the protections of the FSCS with the depositor preference hierarchy to have a rational approach to the risk to the taxpayer. It is not possible to draw a bright line between charities and other good causes, however appealing that may be. I suspect that that lies behind the Parliamentary Commission's reluctance to endorse this simple principle, but that would give rise to instant anomalies that would be troubling to members of other organisations. As I said earlier, the FSCS coverage has been extended to include not just individuals, but small organisations.

Proposals to amend EU law through the deposit guarantee scheme directive—this is currently being debated and the directive is likely to be amended well before 2019 when the depositor preference hierarchy provisions would come into effect—are in motion already. Actually, as currently proposed, the European compensation scheme standard, to which the FSCS would comply, would extend to other organisations, including charities of all sizes, which is the approach recommended here.

The Government are certainly sympathetic to the concerns that lie behind the amendments. I am conscious that, as the hon. Gentleman said, the amendments were tabled to give rise to a debate and to probe the Government's position. During the passage of the Bill, the Government will certainly listen. We want to keep things simple, as the ICB and Parliamentary Commission have recommended, because a proliferation and a cat's cradle of exemptions and inclusions can serve only to confuse.

The vast majority of charities are already protected. The clarity and simplicity of our approach in aligning the interests of the FSCS and the depositor hierarchy makes sense, but there is the question of the scope of

[Greg Clark]

financial services compensation schemes in this country and around the world. My inclination is to think that, for the Bill, the important requirement is to align the compensation scheme with the creditor hierarchy and that any extension of protection to other organisations might best be done through the debate, between now and 2019 when it takes effect, about what the depositor insurance schemes in this country and across Europe cover. I hope that the opportunity to set out the Government's views has been useful. I am certain that we will have occasion to debate this matter again during the Bill's passage.

Chris Leslie: It is helpful to hear the Minister's careful thoughts on this issue. I do not doubt that he has been looking at this question in some detail, but I think that the Parliamentary Commission on Banking Standards had a point when it said that the notion that somehow charities, small businesses or individuals with temporary high deposits would be treated just like everybody else in the event of an insolvency is unconvincing. I think that that is probably right. Let us face it, if that happened in this country, there would be a massive amount of political pressure on elected representatives and Ministers. Of course, there would be some reaction from the body politic if charities were crying out for extra assistance in such circumstances.

We have to be realistic and confront that imaginary scenario—perhaps less imaginary given the Cypriot circumstances—and for the sake of preparedness and contingency spend a bit of time now thinking through what would happen, rather than bodging together some taxpayer bail-out for particular organisations at the last minute. The Minister implied that his preference would be to start with a depositor protection scheme, as opposed to a depositor preference scheme, as a way to look at expanding the insurance arrangements. That is a perfectly viable scheme.

However, in his opening comments, the Minister said that the Parliamentary Commission obviously found this issue very tough, that they are very eminent and that the best they could do was call for a review group to be set up jointly with the Bank of England. He said that he will note and reflect on that recommendation. With the greatest respect, I do not think that we should have a review into whether we should have a review. We should just have the review, be done with it and get on with it so that fairly soon we can put in place a process that reaches a conclusion so that we can plug this gap—this lacuna—that clearly exists in the rules.

Clearly, if we accepted that definition of good causes, it does spill out beyond charities. That is a perfectly viable argument. As I said, the amendment is probing. On reflection, the 90% is a moot point as it would entail a 10% haircut, which is an even greater haircut than the hon. Member for Chelsea and Fulham had yesterday at the barber's. He must have asked for a Cyprus, but I digress. It is important that we find a way to have the maximum possible protection for charitable bodies, because even though there may be only a small number that spill beyond the FSCS protections, they are nevertheless good causes and people would be shocked if they were fleeced by insolvency arrangements.

It is important that the Minister makes a decision about what the process should now be. It is perfectly reasonable for him to try to initiate the review set out by the Parliamentary Commission and it is right that the Bank of England and others should think about the potential for extensions to the FSCS if that is the Government's preferred route, but it would be nice if we could find some way of resolving this in 2013. Heaven knows what is around the corner.

Greg Clark: Obviously, the context of Cyprus injects a sense of urgency into our proceedings, but the amendment that we are debating would take effect from 2019. If we thought that there was an urgent need to consider the arrangements for charities and other bodies, it could be that the Bill, taking effect in 2019, may not be the most opportune vehicle anyway.

Chris Leslie: That is true, except for the possibility of a Government new clause being introduced that would change the Bill on Royal Assent, maybe in 2013—who knows?—but more likely in 2014. There are ways and means of using the Bill to deal with things more quickly, certainly in relation to the FSCS. We need to know that the Minister is in a dialogue with the FSCS and that he is talking to the Bank of England so that this will not simply be an interesting little vignette debate that took place in the spring of 2013. We need more than that.

However, it is important that we have had this discussion. I shall not labour the point. I am happy to withdraw the amendment, notwithstanding the fact that we will want to come back to the matter. It is likely that we will want to revisit it on Report, but I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Greg Clark: We have had a useful discussion. I can certainly confirm to the hon. Member for Nottingham East that we will continue to think actively in this area. The points in the debate on the amendments were well made. It is not a debate for only the spring of this year. I suspect that their lordships will also give close attention to the subject.

The Independent Commission recommended the introduction of depositor preference, ensuring that the FSCS treat deposits as preferential. It is important that people have confidence in the deposits in banks, although the insurance scheme is not free of consequences for the taxpayer. The FSCS is to borrow £20 billion from the Government to fund its obligations during the crisis, and the taxpayer will continue to carry the contingent liability until that is repaid.

Depositor preference means that the compensation scheme can recover more of the sum that it pays out from the bank's assets than would otherwise be the case if it were not preferred. It helps by reducing the likely charge through the levy on other banks, reducing the risk of contagion. Also, it sharpens the incentives on investors, rather than taxpayers, to monitor and manage the bank's risk, given that they will bear more risk than other depositors.

I have already mentioned that the European deposit guarantee scheme directive will, as we anticipate, extend FSCS coverage further to businesses and many other organisations. We will have a debate about that. We will reflect on this debate and see what further suggestions we can make during the passage of the Bill.

Mark Durkan (Foyle) (SDLP): It is a pleasure to serve under your chairmanship this morning, Mr Bone. I want to address the obvious question of territorial extent. As I represent a constituency in Northern Ireland, it is striking that the provisions on preferential debts apply to Great Britain with distinct references to England, Wales and Scotland. That is obviously because of our separate bankruptcy laws. Given that the Financial Services Compensation Scheme and the other provisions are understood by everybody to be UK-wide, the question arises as to particular wrinkles potentially being built into the future arrangements by virtue of differential treatment for Northern Ireland.

I recognise that the Presbyterian Mutual Society was not a bank—it was an industrial and provident society—but when the crisis hit that organisation, widespread, misplaced assumptions and understandings emerged, including at levels of government, about what the regulatory set-up was in Northern Ireland. What was regulated did not extend in the manner that people understood. Of course, the Financial Services Authority should have been regulating much of what the PMS was doing, because it went beyond what an industrial and provident society should have been doing.

The situation revealed that a whole twilight zone had been created in which odd and strange things happened, in which the regulatory system, the Government and the legislative systems both here and in the Assembly were giving confusing answers and explanations to people who were in a state of distress and confusion. A lot of the moneys held by the Presbyterian Mutual Society were—as the previous discussion touched on—held by charitable trusts, and the question arose of who should have preference in the resolution of that situation. Given our discussion on previous amendments, it is appropriate to ask how far we are factoring in the future situation in Northern Ireland.

10.45 am

As a banking market, Northern Ireland is distinct. The high street banks in Northern Ireland are branded very differently from those here. It is also a banking market that will undergo change. First Trust is up for sale, there will always be rumours about Ulster bank being spun out of RBS, and we have experienced the collapse of Anglo Irish bank. That bank was wrapped up into the Irish Bank Resolution Corporation along with Irish Nationwide, which also had some business in the north, and recently the IBRC has, in effect, moved for insolvency. There is experience of banking players in Northern Ireland finding themselves in an insolvency situation, which is why I ask the Minister to shed some light on what he understands will be the situation in Northern Ireland. Has he been given any indication by the Department of Enterprise, Trade and Investment Minister in Northern Ireland of further legislative changes in Northern Ireland that might bring the position in Northern Ireland into some alignment with the position in England, Wales and Scotland as set out in the Bill?

If the Minister is not in a position to answer all those questions fully now, I am prepared to wait for fuller answers until the debate on clause 19, which deals with the territorial extent and which refers specifically to this clause and the exception it contains. But given our experiences in Northern Ireland of thinking that everything would be all right because the spirit of the thing was good, we need to get this right. It seems strange that we have a compensation scheme for the UK that may operate differently in Northern Ireland. We had some experience of the difficulties that such differences may cause in the background to the Presbyterian Mutual Society. The investigation into the Presbyterian Mutual Society showed that in some parts of Northern Ireland, bank managers were saying to PMS customers, "You are not protected there. You should move your moneys into our bank, where you will be protected by the bank guarantee," which started to create a bit of a run on the PMS.

Credit unions in Northern Ireland had similar problems. Although they managed to avoid a run, they were caught in a situation where credit unions in the south were covered by the very generous guarantee given by the Irish Government but credit unions in Northern Ireland were not covered by anything other than their own bonded guarantee within the Irish League of Credit Unions. Credit unions worked hard to make sure that that allowed them to survive a potential run, but in the sort of situations that we are looking at—people have mentioned Cyprus—if there is any gap in protection, and if people with certain accounts in Northern Ireland feel that they have less protection, even under the Financial Services Compensation Scheme, by virtue of the fact that they are banking in Northern Ireland, that will create risks. People will feel that they are at some hazard so they might engage in hasty or rash action, which might have its own implications.

Chris Leslie: We had a useful debate earlier about how charities would be affected, and I would like to echo the comments of my hon. Friend the Member for Foyle, who raised some crucial points about the territorial issues that arise from the way in which the clause is structured. It would be useful for the Minister to answer those points.

The Parliamentary Commission's main concern was about the areas that stray beyond the protection of the Financial Services Compensation Scheme, in which, in the event of insolvency, the uninsured depositors—whoever they are and whatever form they take—will scramble to recover some of their assets. The Cyprus situation brings that concern to the fore. I am not thinking just about the situation of charities, which we have debated, but of business. Most people think of small and medium-sized enterprises, but even mid-cap or larger companies can be significantly affected if a bank becomes insolvent, and obviously there are risks involved in that.

The Minister made a fair point when he said that if everybody is preferred, nobody is preferred. Similarly, it is worth stepping back here. We will come on to this issue when we talk about the bail-in arrangements because these issues bleed across. It is useful to imagine a scenario. We are adding higher preferential treatment to the FSCS arrangements. Clearly in this scenario there will be a greater knock-on consequence for uninsured depositors, who will be left with potentially greater risks as a result of the clause. I am not arguing against the clause; I think it is reasonable. Nevertheless, it is worth, in the balance of risk, trying to work out whether we

[Chris Leslie]

are unwittingly creating an extra level of risk for uninsured depositors, and if so, what it is. In designing future bail-in arrangements, we will need to bear in mind in a more thorough way the downstream consequences for depositors who are not covered by the FSCS arrangements. Certainly, they will need to be informed by the EU resolution and recovery directive, which we are talking about, and how it develops.

We talked about charities earlier. It would be wrong of me not to specifically ask about other businesses and individuals who have temporary high balances. One can imagine a scenario in which an hon. Member is moving house and has vested their total housing assets with a solicitor over the weekend, the solicitor's funds are in escrow in a bank, and suddenly the bank goes bust. What happens if somebody has temporary high balances? It is not inconceivable that even depositors with modest means could exceed the FSCS threshold in such a scenario. Similarly, it is not inconceivable that individuals' life savings or lump sum payments could exceed the threshold. It is not necessarily the Russian oligarchs that we have been hearing about who allegedly have money in Cyprus; it might just be individuals with life savings, who have received a particular amount in a particular set of circumstances.

It is important to hear what the Government's attitude is towards giving a level of protection to depositors with temporary high balances, and to individuals in those circumstances. Those are my questions. The Minister has already indicated that he believes that the best route to follow is to think about enhancements to the depositor protection arrangements. Nevertheless, he will understand that there will always be some uninsured depositors, and there will be consequences of that. I just want to get the sense that the Minister is thinking through the design of the clause with some of those questions in mind.

Greg Clark: Let me address the important and serious points made by the hon. Member for Foyle on behalf of his constituents. He will know that insolvency is a devolved matter in Northern Ireland, hence the different treatment of the arrangements here. However, the devolved Administration have said that they want to make the equivalent changes to the law in Northern Ireland in an insolvency Bill in the Northern Ireland Assembly. That is how they propose to ensure a degree of consistency in the arrangements. Should that not materialise, the Government have agreed with the Administration that they will table an amendment to the Bill at a later stage to give effect to this policy across the whole of the United Kingdom. Their preference is to maintain the principle of insolvency being a devolved matter and to have an appropriate Bill, but should that not be possible and should it prove more convenient later on, we can address it here. Either way, the intention is clear that the arrangements should be consistent across all parts of the United Kingdom.

Some historical problems that the hon. Gentleman has identified, such as with credit unions, are now, as I think he understands, a thing of the past, because the arrangement has been brought into line and credit unions are now under FSCS protection, which I hope provides comfort to current depositors, if not to those who lost out in the past and in terms of the disadvantage that credit unions suffered at the time. As I said, we might have a debate about that later in the Bill proceedings, depending on the progress in Northern Ireland.

The points raised by the hon. Member for Nottingham East come back to the question of preference applying to some people and, therefore, not to others. Inevitably, when it comes to the hierarchy of depositor preference, it is like squeezing a balloon; if more people are included, that has consequences for those who are excluded. The debate—which, to a certain extent, continues—in Cyprus over the past fortnight has been about to what extent it is reasonable to share the burden of that kind of forced bail-in between protected and unprotected depositors. As we have seen, the proposal last weekend was to have a higher contribution, it seems, from the uninsured depositors.

On the face of it, if we think only in terms of the depositor protection hierarchy, the consequence of including other categories is that we would increase the risk to others. However, that is a notional and theoretical risk, because as the clauses that we will debate on a bail-in show, it is absolutely our intention to ensure that other subscribers bear the responsibility for bailing in banks, should they fail in future, rather than depositors. The events in Cyprus make such discussions even more important.

I turn to the particular circumstances of people who ordinarily might be protected by the Financial Services Compensation Scheme, but might find themselves briefly outside it—for example, if there is a temporary holding of assets because of the sale of a house. In terms of the scheme's simplicity, one can imagine circumstances in which including such exemptions could give rise to all sorts of litigation—where people were demonstrating that their holdings were fleeting and temporary—however clear the intention is to cover perfectly reasonable cases, such as constituents that are moving house over the course of a weekend.

However, as I said in our debate on the amendments, changes are being contemplated to the European directive on deposit guarantee schemes. We were pressing, at the European level, for precisely those sorts of contingencies to be included, and we were trying to find ways in which they could be specified that do not give rise to the unintended consequence that more or less any depositor could claim that they are covered by the compensation scheme, which would defeat the point of having the different categories with the protection that is there. That process is ongoing. The clause, as I mentioned, would take effect from 2019. Were we minded to go further, it is highly likely that the European arrangements would kick in before the clauses in the Bill, but no doubt, when we come to talk about that issue during future stages of the Bill, we will reflect more on where the European discussions have got to.

11 am

Mark Durkan: I thank the Minister for addressing some of my questions. However, I am at a loss to fully understand his answer, in that the intention is obviously to respect the devolved nature of insolvency legislation in Northern Ireland, but any change to legislation, in respect of insolvency law, in Northern Ireland will not, of itself, be able to make provision about the Financial

Services Compensation Scheme. No aspect of that is devolved, so the Assembly cannot legislate on the Financial Services Compensation Scheme, even though it is meant to operate as a UK-wide scheme.

Is there not a case for making some sort of "watch this space" provision in the legislation to permit that at a given future point, by order of the Northern Ireland Executive or a Minister there and of the Treasury, provisions can be made to extend clause 9—it exclusively covers Great Britain—to Northern Ireland as well? I am not sure that the Northern Ireland Assembly can legislate on the Financial Services Compensation Scheme. The Bill needs to make that provision in some way, or at least provide the housing for a future change.

Greg Clark: The hon. Gentleman makes an interesting point, but clause 9 is not about the operation of the FSCS; it is about insolvency law and who is protected in the event of insolvency. The hon. Member for Foyle is right that Northern Ireland legislation could not alter the FSCS, but the clause is about where the FSCS, with all the legislation that underpins it, appears in the creditor hierarchy in the event of insolvency. Insolvency law is a devolved matter and the discussions that have taken place with the Administration have established that deference should be paid to its being a devolved matter, although there is a clear expectation that either a law will be passed in Northern Ireland or an amendment will be made.

The hon. Gentleman said we should have something that says, "Watch this space," but as far as having a placeholder, he personifies the injunction to watch this space. He is a Member of this House and can do that as the Bill goes to Report and Third Reading. He has friends in the House of Lords and they will be able to watch this space there and ensure that the agreement that has been reached with the Administration is reflected. The Government have no objection to facilitating the active intention on both sides, and I see no problems in discharging that.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

The Chair: It might be helpful to remind the Committee that, for reasons I am not entirely sure of, we are not allowed hot drinks in this room.

Clause 10

Discharge of functions by the scheme manager

Question proposed, That the clause stand part of the Bill.

Greg Clark: Following the point made by the hon. Member for Foyle, this clause relates to the administration of the Financial Services Compensation Scheme and is therefore a legitimate subject for the Committee and Parliament. The FSCS exists, as we all know, to provide compensation in the event of a bank's failure and is an industry-wide collective insurance scheme. Because it can borrow from the Government to fund compensation costs that the industry cannot absorb immediately without damaging financial stability, the scheme is an issue for the Bill Committee.

In 2008, the Treasury had to lend £20.4 billion to the FSCS to fund its provisions for the depositors of Bradford & Bingley, the London Scottish Bank and, later, the Icelandic banks. The failure of even a moderately sized deposit taker can entail a call on public funds, as we saw with the Dunfermline Building Society, to which the hon. Member for Kilmarnock and Loudoun referred. It was not even in the top 20 listed deposit takers in the United Kingdom, but it had deposits of £3 billion when it failed in 2009.

It is appropriate for the FSCS to have regard to the need for efficiency and effectiveness in how it discharges the functions because of that risk to public funds. That is not simply a concern for the industry; the public purse is exposed and the public interest is therefore engaged, so there is a need for the FSCS's operating principles and management explicitly to minimise public expenditure, which is what the clause will do.

Cathy Jamieson: We have moved on to a series of relatively short clauses that make technical changes to the Financial Services Compensation Scheme. I want to ask the Minister a couple of questions about clause 10 in the hope that he will give us further information. The FSCS, which he described as an "industry-wide collective insurance scheme", provides compensation to consumers if a provider of financial services fails. It is funded by a levy on the financial services industry.

Crucially, as the explanatory notes clearly outline, the Financial Services Compensation Scheme can borrow from certain accounts administered by the Treasury to pay out quickly—something important that we support—providing that the loan is judged to be in the public interest. We again return to points that we have repeatedly made in relation to the wording of the legislation and the intent of the Government to ensure that such judgments are coherent and sensible and that we and everyone else understand how they are arrived at.

The clause will add a new section to the Financial Services and Markets Act 2000 to require the Financial Services Compensation Scheme manager—in other words, the chief executive—to have regard to efficiency and effectiveness, as the Minister said. It would again be helpful to tease out some of the issues involving both the public interests, and efficiency and effectiveness. Crucially, proposed new subsection (1)(b) mentions

> "the need to minimise public expenditure attributable to loans made or other financial assistance given to the scheme manager for the purposes of the scheme."

The new section is brief, but it will give quite a lot of responsibility to the scheme manager, so it would be helpful if the Minister advised us whether further instructions will be issued to the scheme manager, what sort of guidance will be in place and what expectations there will be.

The new section makes it clear that the scheme manager will have to take into account efficiency and effectiveness as well as the public interest test, but will the Minister say more about the factors that are taken into account by the Treasury in assessing a request for a loan from the Financial Services Compensation Scheme to get payments out quickly, so that we have an idea of that two-way process? In that context, will the Minister give us further detail about the procedure for resolving differences of opinion or even disputes between the

[Cathy Jamieson]

scheme manager and the Treasury, if they interpret the public interest test and the issue of efficiency and effectiveness slightly differently?

As I have said, I do not have a problem with the intention behind the clause. It is of course important that when any financial services provider fails and money needs to go to those affected that that ought to be done as quickly and sensibly as possible. Given that the legislation refers specifically to the scheme and the scheme manager, it is important to probe the Minister's intentions further and to ask how he will put in place safeguards to deal with any questions that may arise.

Greg Clark: The clause is fairly minimalist, as the hon. Lady implies, but relates to the fact that the exposure of public funds by the FSCS's actions requires some reflection in primary legislation, which has not been the case to date. Nothing in the clause provides the power for the Treasury to intervene in the day-to-day activities of the FSCS; it is for the accounting officer to do so. We will come on to the appointment of the accounting officer when we debate clause 12. Committee members who have served on the Public Accounts Committee will know that an accounting officer who, as we shall discuss, is the chief executive, is held to account for their implementation of the requirements on them, which is appropriate. We should regard clause 10 as part of a scheme that includes clause 12. In effect, we will have an accounting officer for the first time in the FSCS responsible to Parliament, the National Audit Office and the Public Accounts Committee. To provide a basis for scrutiny, the accounting officer requires typical objectives, as do public bodies, to carry out their activities with "efficiency and effectiveness". That is what is behind the choice of words.

It is not our intention to use the clause in any way to manage the FSCS; it is principally a scheme of mutual insurance among financial institutions and it is right that they should order it in that way. Given the ultimate exposure of public funds and the public interest in that exposure being minimised, the measures provide a hook for Parliament, through its Committees and bodies such as the NAO, which works on behalf of Parliament, to obtain the scrutiny that it would not otherwise have.

Cathy Jamieson: I am listening closely to the Minister and looking ahead to what we will discuss under clause 12. To ensure that I have understood his argument fully and that it is on the record, will the Minister confirm that he is essentially suggesting that clause 10 must be seen in the context of clause 12, but there would be no circumstances in which the Treasury would intervene at any stage to direct, give guidance or information, or make requests to the scheme manager, and that the responsibility would be with the scheme manager to comply with the efficiency, effectiveness and public interest tests? Is my interpretation correct?

Greg Clark: Yes, the hon. Lady is right. No provision in the clause gives the Treasury, or indeed any other part of Government, the ability operationally to interfere in the running of the scheme, but it is important that the scheme is accountable to Parliament for the use of public funds when it uses them, and for the exposure of risk that might be entailed to public funds.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11

POWER TO REQUIRE INFORMATION FROM SCHEME MANAGER

Question proposed, That the clause stand part of the Bill.

Greg Clark: Clause 11 is one of a clutch of clauses that update the provisions surrounding the FSCS. It arises from the reclassification by the Office for National Statistics of the FSCS as "a central government body", and as such the FSCS must be consolidated within Treasury group accounts. The FSCS current governance framework, given that it applies to a central body, does not give the Treasury sufficient direct control or scrutiny of the activities of the FSCS, including access to its accounts and the management information necessary to certify for audit purposes, for example, that its activities are up to the standard required under "Managing Public Money" or provide the financial information necessary to be consolidated in the Treasury's accounts, which are then reported to Parliament.

The clause will provide the Treasury with the power to require specified information from the scheme manager of the FSCS. That will include forecasts for the parliamentary estimates and financial accounts to consolidate the FSCS account into the Treasury group account. The Treasury will not have the power to require the scheme manager to provide other information, and the day-to-day independence of the FSCS will be protected, as we noted in the previous debate.

11.15 am

The clause will ensure that the Treasury has access to the information necessary for the Treasury's principal accounting officer to be able to assure himself or herself of the highest standards of regularity and propriety for the FSCS and to obtain the financial information that it is necessary to report to Parliament as a result of the reclassification.

Cathy Jamieson: We have here a short clause; the Minister coined the term "minimalist" to describe it. As he has said, it will give the Treasury the power to require the FSCS to provide information, so that the whole of Government accounts may be prepared. It will also give the Treasury the power to demand information within a specified period.

It is vital that the FSCS provides accurate information on time and on the basis the Minister described. However, I am unclear as to what timetable he has in mind for providing such information. Will he give us some details about that? The Minister stressed that the Treasury does not intend to undermine in any way the independence of the scheme or to interfere with its day-to-day running and responsibilities, but it is important to ensure that safeguards are in place in case the scheme does not run correctly. Will any sanction be available should the FSCS not provide sufficient information within the time scales agreed or set out?

Will the Minister describe what regular meetings are held between the Treasury and the senior management of the scheme as part of the regular oversight or supervision of the FSCS? Who is involved in them? How often do they take place? How do they operate? Will regular meetings be held with the FSCS, the Financial Conduct Authority and the Prudential Regulation Authority as part of the ongoing oversight and dialogue? It will be helpful for us to understand that in the context of ensuring that the scheme runs appropriately and that there is oversight and accountability.

Greg Clark: The clause refers to information that can be reasonably required

"in connection with the duties of the Treasury under the Government Resources and Accounts Act 2000",

which limits the type of information that may be required. That also has implications for the timing involved in providing the required information.

The time requirements relate to the type of information required. For example, financial accounts are required annually. The scheme manager and the Treasury will be required to agree on a consolidation timetable each year, whereby the scheme manager will provide the financial information in an agreed format for consolidation into the Treasury's accounts. As a minimum, it should include accounting data in a usable format on a quarterly basis and a complete set of account information at the end of March.

It is envisaged that the scheme manager will provide the Treasury with forecast information in an agreed format twice a year, so that parliamentary estimates may be made and presented to the House. The information for that purpose will be required by the end of January for the main estimate and by the end of December for the supplementary estimate. Returns from the FSCS will consist of a summary of its forecast resource and capital expenditure, aligned to the Government's financial year.

The final piece of information that we anticipate requiring using this power is monthly management information to support the Treasury principal accounting officer's assurance over the consolidation of the FSCS accounts into the Treasury group's consolidated account. The accounting officer of the FSCS will be accountable to the Treasury's accounting officer. They will report in that way and also directly to Parliament. As for an available sanction, across Government, accounting officers obey the directions of other accounting officers when there are subsidiaries, but in extremis I am advised that a court order could be imposed on the accounting officer of the scheme to comply. Much scarier than the order of a court is the wrath of the Public Accounts Committee should that not happen.

Nick Smith (Blaenau Gwent) (Lab): I want to follow up the question that my hon. Friend the Member for Kilmarnock and Loudoun asked about the whole of Government accounts. It is an important tool, not just for the PAC but for all those who are interested in Government expenditure. It is not clear from his answer how quickly the information that could help the whole of Government accounts will be provided by the organisation.

Greg Clark: The requirement is that it is done in a timely way for the presentation of the accounts to the National Audit Office and the PAC. The reason for specifying the Government Resources and Accounts Act 2000 is that the powers can then comply with the Treasury's requirements in that respect. There are regular meetings between the Treasury and the FSCS, and senior officials meet the FSCS chief executive approximately every two months. Treasury finance officials also meet the FSCS finance director, and the chief executive, Mark Neale, is someone whom I have met twice personally in the past few months.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Clause 12

Scheme manager: appointment of accounting officer

Question proposed, That the clause stand part of the Bill.

Greg Clark: This brings us to the end of the group of clauses relating to the FSCS. I anticipated some of the points relating to this clause in my earlier remarks. The Office for National Statistics has reclassified the FSCS as a central Government body. As such, its accounts have to be consolidated in the Treasury group accounts. Each organisation in central Government must have an accounting officer. The accounting officer, as Members know, is someone who can be called to Parliament and held to account for the stewardship of resources within the organisation's control. Clause 12 provides for the first time for the statutory appointment of the chief executive of the FSCS scheme manager as an accounting officer. The current chief executive is Mark Neale. The clause also ensures that the Treasury must approve the appointment of the chief executive.

As an accounting officer, the chief executive is personally responsible for safeguarding the public funds of which he or she is in charge. In the case of the FSCS, that takes the form of levies on the financial services industry. The chief executive is also personally responsible for ensuring that, subject to his or her duties under FSMA and the Companies Act 2006, the FSCS as a whole is run on the basis of the standards on governance, decision making and financial management that are set out in "Managing Public Money". The statutory appointment of the chief executive as accounting officer will strengthen the FSCS. It is consistent with the reclassification of the body by the ONS. It represents an increased level of accountability to Parliament. I think it will help to provide the confidence that the Treasury needs in the regularity and propriety of the whole of the Treasury group account.

Cathy Jamieson: We have had some discussion on this in the light of the issues that were raised in clause 10.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.