# PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

## Public Bill Committee

# FINANCIAL SERVICES (BANKING REFORM) BILL

*Eighth Sitting*

*Tuesday 16 April 2013*

*(Afternoon)*

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**Saturday 20 April 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 16 April 2013*

*(Afternoon)*

[Dr William McCrea *in the Chair*]

## Financial Services (Banking Reform) Bill

### New Clause 6

Remuneration consultants

'The Secretary of State will by regulations provide for a requirement that the remuneration consultants advising on remuneration policy shall be appointed by the shareholders of a relevant financial institution.'.—*(Cathy Jamieson.)*

*Brought up, read the First time, and Question proposed (this day),* That the clause be read a Second time.

2 pm

*Question again proposed.*

**The Chair:** I remind the Committee that with this we are discussing the following:

New clause 7—*Remuneration committee*—

'The Secretary of State will provide for a requirement that an employee representative should be a member of the remuneration committee of a relevant financial institution.'.

New clause 10—*Remuneration reform*—

'Within six months of Royal Assent of this Act the Chancellor of the Exchequer shall lay before Parliament proposals on reform of remuneration at UK financial institutions which shall include incentives to take account of the performance and stability of a UK financial institution over a five- to 10-year period.'.

**The Financial Secretary to the Treasury (Greg Clark):** We were talking about remuneration and how it contributed to the financial crisis. We were also talking about some of the principles that we should apply in future to ensure that remuneration does not contribute to instability.

Under the Financial Service Authority's remuneration code, being taken forward under the Financial Conduct Authority, between 40% and 60% of bonuses need to be deferred and at least 50% must be paid in shares or other long-term instruments. That means that the up-front cash element of bonuses is now limited to between 20% and 30%. Bonuses, in any event, are down by 80% since 2007. From 1 October this year, a binding shareholder vote will be required on executive pay. Since the financial crisis, we have put in place measures that make the United Kingdom one of the more rigorous regimes in the world regarding remuneration policy.

New clause 6 would require shareholders to vote on remuneration consultants appointed to advise board remuneration committees. The Government consulted on such a proposal last November, but it attracted little support from shareholders. The feedback from the consultation is that that would introduce bureaucratic requirements without any particularly valuable benefit.

Shareholders who responded to the consultation said that greater transparency is needed regarding the appointment of consultants to advise remuneration committees. We will therefore amend the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 to require future remuneration reports for quoted companies to state: whether anyone has provided advice to the remuneration committee; if so, who; whether that person or body has provided any other services to the company; who appointed the group or individual; how they were selected; the cost of that advice; and the basis of payment.

We will lay regulations in the coming months and ensure that the provisions come into effect from October 2013. They will go further than we have done and give shareholders more information than ever before, without micro-managing their responsibilities. That is in the context that from October, there will be a new vote on the proposal for remuneration anyway. Our plan is consistent with the outcome of the consultation, and I hope that the hon. Member for Kilmarnock and Loudoun will find that it meets the spirit behind new clause 6.

New clause 7 would require companies to have an employee representative on remuneration committees. It is important that such committees make their decisions based on a wide variety of information. Companies and shareholders may, if they want to, have an employee representative, but at the moment they are not compelled to.

Our approach is not in any way to resist the idea that the opinions and experience of employees should be made available to boards and remuneration committees in making their recommendations; it is based on transparency. I have said that we will table amendments to the 2008 regulations on disclosure. Some further changes that we will make include requiring companies to disclose whether and how they have sought employees' views on pay and to publish that in directors' remuneration reports. They must say how they have taken into account the pay of existing employees in making pay decisions.

New clause 10 would require the Government to introduce proposals for incentives to take into account performance and stability over a five to 10-year period. Again, I think all of us would recognise and reflect on the fact that some of the very short-term rewards and bonuses contributed to excessive risk-taking in the last financial crisis, and that was in the interests of neither shareholders nor taxpayers. The Financial Services Authority's remuneration code as it was drafted, now being taken forward by the Financial Conduct Authority, reflects the global Financial Stability Board's principles for sound compensation practices. This requires variable remuneration for risk-takers to be deferred for at least three to five years, and to be subject to a retention period on vesting.

The difficulty with new clause 10 is that the period of deferral should clearly reflect the type of business that is subject to these provisions. For example, some funds come into existence and are wound up, and their business is completed in less than five years. In those circumstances, the correct alignment of incentives would be with the life of those funds.

In the case of other organisations and individuals, such as the directors of banks—ring-fenced banks, in particular—it is appropriate to consider career deferrals of bonuses, to reflect the long-term financial stability objectives. Some firms have gone beyond the minimum specified in the remuneration code, reflecting the global Financial Stability Board's principles. For example, HSBC has favoured deferral of bonuses until retirement in some cases. How the implementation of the code is being taken forward very much has this issue in mind. The minimum period is there to reflect the different circumstances, but already we see that people are making more informed choices as to how vesting takes place.

In the discussions that we have had around capital requirements directive IV in Europe, we have insisted that bail-inable debt should be part of variable pay. It seems to be a good and useful thing that if in future there is to be debt that can be bailed in, executives should be rewarded in that, so that their interests are again aligned with those of other stakeholders in the company. Of course, if the Parliamentary Commission on Banking Standards should come up with any further recommendations on pay, we will certainly consider them; we will have the opportunity to do so in this House and the other place.

I hope that the hon. Lady will feel that the additional measures that we are taking on remuneration address the substance of her concerns. At the moment, we have the most rigorous jurisdiction for pay in the world, but we want to go further and make it tougher. In particular, the implementation of both the code and CRD IV will give us the opportunity to keep this matter under review and to ensure that the problems of the past, when pay and remuneration structures actively contributed to financial instability, can never happen again.

**Cathy Jamieson** (Kilmarnock and Loudoun) (Lab/Co-op): One of the things I have learned over my years in politics is that when there is a small victory over the Government, or a movement from them, it might be best to thank them for what they have done, make a quick point about where they have not gone far enough and then move on, lest I tempt the Minister to retreat in any way from what he has introduced, although I am sure that he would not.

My hon. Friend the Member for Nottingham East, who was not able to be with us for the full sitting of the Committee this morning and who would in other circumstances have been speaking about the new clauses, may well nudge me if I say too much and tempt fate in any way, because he has done a lot of the work in bringing this issue to a Committee, notwithstanding the fact that I have spoken about it this morning.

I want to make a couple of points briefly about new clause 6. We tabled it because we wanted to see greater transparency; we wanted to ensure that the shareholders were actively engaged. I heard what the Minister said about the consultation. I am pleased that, although he is not accepting the new clause, he will bring forward an amendment that will make a difference. I am sure that he listened to the consultation, in particular on issues about who was involved, what advice was given, who appointed them and so on.

We proposed new clause 7 because we believe it is important that employees should have the opportunity to be consulted and involved in the process. I would have liked to see the Minister go slightly further in ensuring that employees had representation on boards, but I am pleased to hear that he is at least not resistant to the idea. He seems to be open to the idea of employees' opinions being taken on board. He referred to the importance of transparency and the opportunity to bring forward further changes that will require companies to state whether they have sought, and how they have sought, those views and to have that published. I would have liked to see more in that context, but I accept that movement has been indicated this afternoon.

New clause 10 addresses issues of short-termism. The Minister mentioned some difficulty with the technical aspects of the new clause's potential to do what we hoped to see. I am interested to hear the Minister talk about the need on more occasions for a longer period of deferral depending on the type of business, and deferral of capture time. We would certainly not want a situation that precluded any of that happening if it were important.

If the Minister has not listened entirely to everything we have said during the debate, he seems to have listened further to us and partly to others on these critical clauses. I welcome that fact, although he has not gone as far as we would have liked. I am sure there will be opportunities for further debate. However, at this time I beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

## New Clause 8

### Financial Crime Unit

'(1) The Secretary of State shall by order create a new Financial Crime Unit as part of the Serious Fraud Office for the purpose of tackling financial crime, using resources from the proceeds of penalties paid to the FCA.

(2) The Treasury shall conduct a review into the creation of the Financial Crime Unit and consult on its proposals for the Financial Crime Unit's powers and responsibilities.

(3) The Treasury shall lay its proposals before both Houses of Parliament no later than six months after this Act comes into force.

(4) The orders under subsection (1) may make such amendments to legislation as appear to the Treasury to be necessary or expedient for the purpose of creating the Financial Crime Unit.

(5) The orders under subsection (1) may only be made if they have been laid before and approved by a resolution of each House of Parliament.'.—*(Chris Leslie.)*

*Brought up, and read the First time.*

**Chris Leslie** (Nottingham East) (Lab/Co-op): I beg to move, That the clause be read a Second time.

It is a pleasure to join you, Dr McCrea, in this Committee. The proposed new clause seeks to instruct the Secretary of State by order to create a new financial crime unit as part of the Serious Fraud Office, which is currently tasked with dealing with what is called in shorthand "white-collar crime"; that includes financial fraud and corporate fraud more broadly.

The reason for tabling the new clause is obvious. Andrew Bailey, the new chief executive of the Prudential Regulation Authority, was reported in the papers today as saying that it was "odd" that nobody had been locked up as a result of the banking crisis of several years ago. The flaw in the system is obvious. We do not have strong enough investigatory and prosecuting capability to ensure that, where we do have laws to capture serious or systemic misbehaviour, prosecutions are properly brought to fruition.

*[Chris Leslie]*

It is not just a question of the law not being tight enough or not sufficiently well defined. It is important to recognise that when it comes to this sort of offence, pinning down responsibility and making sure that we gather the evidence of causation to the level of proof beyond reasonable doubt is a very difficult task, especially when the investigators are hampered by a lack of resources.

2.15 pm

The new clause would create a new unit in the SFO. We have to increase the resources available for tackling financial fraud. As financial products become ever more complex, the new clause would enable the building of expertise in an area where the financial incentives for criminal activity are absolutely enormous but prosecutors and investigators do not have the same level of capacity for capturing exactly what is going on. The total fines that Barclays paid for the LIBOR scandal, although small for Barclays, could pay for the entire budget of the Serious Fraud Office for 10 years; that is the extent of what is happening. The Minister should consider using some of the proceeds of penalties paid to the FCA to help rejuvenate the SFO.

Hon. Members may well have spotted during the spending review announced by the Chancellor back in 2010 that, sadly, the SFO appears to be pencilled in to lose 25% of its budget over the spending review period. Things are going to get tougher for the SFO. In fact, many hon. Members will remember that the Home Secretary originally had plans to abolish the SFO altogether, but was eventually forced to perform a U-turn on those proposals. Now that we know that the SFO is here to stay, let us ensure that we can build it up and enhance it, giving it the powers and resources that it needs. It would be more than self-sustaining if it were able to identify fraud and yield fines income at a level even higher than that which is already, sadly, flowing through.

Fraud is estimated to cost Britain around £73 billion a year, according to the National Fraud Authority. It is a significant area of criminality, but we are not properly equipped to deal with it. LIBOR showed that misconduct in financial services can have ramifications for traders, the industry, shareholders, the reputation of the City, and the criminal law. It is already a criminal offence to attempt to fix LIBOR, but the Government, and the SFO in particular, have struggled to go after those responsible. It is vital that the SFO has the resources necessary to tackle that scandal and any future ones. Our new clause would give Parliament the chance to discuss the creation of a new division in the SFO, sending a firm message to those who might be tempted to engage in criminal conduct in financial services.

**Greg Clark:** It is nice to welcome the shadow Minister back to his role, although it is fair to point out that it is usually when the hon. Member for Kilmarnock and Loudoun speaks that I am able to make some progress on agreeing with the Opposition, so he may want to reflect on his attendance.

The whole Committee recognises the importance of tackling financial crime through the criminal law as well as through the regulatory sanctions we discussed previously. It is a stark fact but, following the financial crisis, there were fewer convictions for fraud and forgery in 2009 than there were in 1999. That may be for a number of reasons, but I suspect that it is not because the incidence of those crimes was lower. There is a common concern that the system needs to be more effective in pursuing those people who take advantage of others in the financial system and, indeed, of taxpayers.

New clause 8 would establish a new unit in the Serious Fraud Office, which would be concerned with financial crime. However, much of the SFO's work is on financial crime: fraud tends to be, of its essence, financial for the most part. So to create a further subdivision of a unit that is dedicated pretty much to financial crime is not the best way structurally to deal with the problem, although I accept that the new clause has given us the opportunity to debate these matters.

The other aspect of the new clause concerns the financing of the SFO. Its financing is unconstrained in that if an investigation needs to command more resources, an application can be made to the Treasury to provide for funding from the special reserve. I cannot imagine circumstances in which the determination to undertake an important fraud inquiry would not achieve a satisfactory result. There have been problems with the SFO, to which the hon. Gentleman alluded, but this is a time in its life when changes have been made and are bedding in. From last April, the SFO has had a new director and has brought in a new structure. It is fair to say that the principal problems with the SFO that led to the Home Secretary considering its future were not about resourcing, but about its operational and organisational effectiveness.

New arrangements are in place and we need to keep them under review because the SFO needs to improve. In particular, the Attorney-General will legislate to give Her Majesty's Crown Prosecution Service inspectorate the power to inspect the SFO, so there will be an independent ability to assess its future performance. Given all that, now is not the time to tinker further with the SFO by creating a unit within it that would cover the dominant part of the function in the first place.

It is also worth recording that the new national crime agency, which is responsible for directing the national response to economic and financial crime, is due to be established under the Crime and Courts Bill, which is currently before Parliament. I think it comes back to the Commons for debate on 23 April. That would establish an economic crime command with a clear remit to reduce the threat from economic and financial crimes, and co-ordinate the work of the SFO with individual police forces and the regulators, including the FCA and the PRA.

All those bodies have been actively engaged in establishing this command during the past months. Subject to Royal Assent being granted, we expect it to be fully operational by the end of the year, and the new national crime agency will be under the supervision and control of an experienced chief constable. The hon. Gentleman spoke about the need to make sure that the measures that we have in place at the moment to deter and punish financial crime are used rigorously in future. Those arrangements are being strengthened. I therefore hope that he will withdraw his new clause.

**Chris Leslie:** It is certainly true that we tabled the new clause to spark a debate about the adequacy of the SFO and its capability of grappling with what has been an enormous problem in recent years. Members of all parties will recognise that the prosecuting and investigating authorities really struggle to play catch-up with the intricacy and ingenuity of financial crime. These are not the sort of crimes where it is easy for an officer of the law to spot that a crime has been committed. These crimes are often hidden in electronic data, with vast amounts of insider knowledge squirreled away far from the public's gaze. That can often have a massive effect on the well-being not just of the companies affected, but downstream on our constituents and society as a whole, so it is important that we get a grip on the SFO's capability of dealing with financial crime.

I accept the Minister's point that there is a debate to be had on whether the right approach would be specifically to have a new subdivision in the SFO in this way, but some sort of dedicated resource that is earmarked for financial services crime, as opposed to corporate crime or fraud more broadly, would be worth while, not least because it could attract more support from the Treasury and across Whitehall in general. Such support has been missing from a lot of the SFO's work in recent years, and considering the public's interest in seeing prosecutions brought to fruition, we know that the SFO found itself in great difficulties when pursuing some of the Icelandic issues. They were never really brought to fruition and many local authorities and others went through serious financial difficulties as a result. We have to raise the profile of this issue, and one way of doing that would be through a financial crime unit.

I am happy to take away the new clause at this stage, notwithstanding the fact that we want to see more action on the matter. However, the Minister indicated that he is looking at the SFO's ability to call on the special reserve, which was interesting, and I would like to look at that in more detail. I do not have enough granular detail about what has been happening over the most recent years, particularly the level of prosecutions in financial services in which the SFO has been engaged, and it would be worth while seeing some of those data, and data on the level of performance. Perhaps the national crime agency, in its relationship with the SFO, could provide an opportunity to take stock of how well the SFO is doing.

We need more action; things are not good enough as they stand. We made our point as forcefully as we could and we encourage the Minister to take this issue away. We will doubtless want to return to it in future, but I beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

**New Clause 9**

PROTECTION FOR WHISTLEBLOWERS

'After Part IVA (43B)(f) of the Employment Rights Act 1996 there is inserted—

"(g) that a breach of regulated activities under FSMA 2000 or the Financial Services Act 2012 has been committed, is being committed, or is likely to be committed.".'.—*(Chris Leslie.)*

*Brought up, and read the First time.*

**Chris Leslie:** I beg to move, That the clause be read a Second time.

The notion that individuals who spot offences, or potential criminal offences, in the course of their normal employment, should bring them to the notice of the relevant authorities is not new, but it has not been happening as it should in respect of financial services. Sometimes, employees can feel too intimidated to tell the relevant authorities that they think that something is seriously amiss. That is why, in the Employment Rights Act 1996, criteria were set out that gave some protection from unfair dismissal to employees who feel that an offence is likely to be committed. That is the notion of protected disclosures: the ability of those employees to disclose that misconduct has occurred, is occurring, or could occur.

Currently, under the Employment Rights Act, there is a list that says that if, for example, somebody feels that their health and safety is in danger, they can report that to the relevant authorities and be protected from unfair dismissal. Similarly, damage to the environment—or any criminal offence, for that matter—is subject to protected disclosure if a company is not obeying the law and somebody is covering that up. At present, however, the list does not include those regulatory breaches set out in the Financial Services Act 2012 or the Financial Services and Markets Act 2000. That is why the new clause would insert a specific reference to breaches of those provisions as protected disclosures for the purposes of avoiding unfair dismissal. It is a fairly obvious point. We believe that individuals who might blow the whistle on malpractice should be given immunity. For the new banking system to work well and to be policed effectively, there must be protection for staff who believe that wrongdoing exists in their organisation.

2.30 pm

New clause 9 would give us another tool with which to change the culture of the financial services sector. A bank employee might wrestle with their conscience before deciding to break ranks, and if an honest trader suspects wrongdoing and is considering informing the authorities, protections must be in place to mitigate their fear of losing their job, their salary, their employability and their friends and colleagues. We have learned from past experience, including cases such as that of Paul Moore, a high-profile whistleblower who was head of group regulatory risk at HBOS until 2004. He argued that there needs to be stronger protections in this vein. If we are going to reassure people who have similar information that they will be able to continue in their employment after blowing the whistle, we have to take such a step to encourage them to emerge.

There is an argument for asking why new clause 9 does not include references to the Bank of England Act 1998 and other legal provisions. I accept that we must ensure that the full range of financial regulation is covered if a change such as we propose is made to the Employment Rights Act 1996, but the new clause is an important marker from our point of view. We think that the Parliamentary Commission on Banking Standards should look at protection for whistleblowers, and we encourage it to do so in advance of its final report, which I think is due in May.

The Parliamentary Commission was set up in the wake of the LIBOR scandal, which particularly illustrated the importance of making it easier to report wrongdoing. Various news reports and speculation ahead of the findings of the investigations into LIBOR suggested that there was probably something amiss in LIBOR trading, but nobody came forward with evidence to blow the whistle. We have to shift the balance, because wrongdoing is often not simply a case of one or two rogue traders or individuals. Dozens and dozens of individuals in the banks know when something is not right, and we must ensure that we give them the strength and courage to come forward and report possible crimes and breaches of the regulations. That is why we have tabled the proposal to extend immunity for whistleblowers in financial services.

**Greg Clark:** As the hon. Gentleman says, new clause 9 is designed to ensure that whistleblowers in financial services benefit from the protections in employment law from which whistleblowers in general benefit. Whistleblowing is an important way of uncovering potential abuse that might have consequences for savers, depositors and taxpayers throughout the financial system. Martin Wheatley, the chief executive officer designate of the FCA, told the Parliamentary Commission that the FCA's predecessor, the FSA, received

"3,000 to 4,000 whistleblowing alerts a year. For us, they are a very valuable source of intelligence."

That amounts to between 12 and 16 whistleblowing calls every working day, so considerable use is already made of whistleblowing intelligence. Not all of it is actionable; Martin Wheatley told the Commission:

"About 12% of what comes in as whistleblowing alerts is what we would call actionable intelligence".

It is important now and will be important in the future that we ensure that those who engage in whistleblowing do not suffer detriment as a result. Therefore, it is perfectly reasonable for the hon. Gentleman to raise this issue via the new clause, but I hope that he will feel reassured that all the provisions in it already exist in legislation—in particular, in two sections of the Employment Rights Act 1996. Any disclosures concerning potential criminal offences having been committed are covered by section 43B(1)(a) of the 1996 Act. Given that the Financial Services Act 2012 introduced a new criminal offence relating to benchmark manipulation, that will be covered by the protection for whistleblowers. The other relevant section of the 1996 Act is 43B(1)(b), which provides that disclosures about potential regulatory breaches are also covered by the immunities that Act gives.

Therefore, the proposals in the new clause are covered in existing legislation. However, it is my view that we should not be complacent and it may indeed be desirable to go further in this Bill or in the future. In, I think, Treasury questions or perhaps even the Second Reading debate, the possibility was raised of our considering a whistleblower incentive scheme, similar to that introduced in the US recently by the Securities and Exchange Commission whereby whistleblowers can receive a proportion of any enforcement penalties. I undertook to consider that suggestion, and obviously, any such suggestion raises other issues. In the UK, we have always been very cautious about the use of paid informants, so we need to consider it carefully. I mention that only to point out, as the hon. Gentleman did, that the Parliamentary Commission is considering the matter. I think that hon. Members on both sides of the Committee look forward to hearing its views. We will consider whether further measures on whistleblowing in the financial services arena are needed in the light of its report. I therefore hope that this debate has given the Committee an opportunity to consider the matter for now and to be assured of the Government's absolute intention both to protect the existing provisions to safeguard the interests of whistleblowers, and to consider what might be necessary to enhance them further.

**Chris Leslie:** I am grateful to the Minister for his observations on the current level of whistleblowing practices of which the Financial Services Authority, now the Financial Conduct Authority, is aware. Of course, the real question is the conversion rate—the conversion of what comes through the door as anonymous tip-offs, for example, into hard evidence and people being willing to be witnesses in cases of prosecution. That is where much of the attrition probably takes place. We have just had a debate about the Serious Fraud Office. The point about ensuring that there is hard evidence is one we need to galvanise and support.

It was very helpful that the Minister indicated implicitly that he would be willing to think a lot further about this area. I hear what he says on the question of whether these issues are covered in the legislation as set out, although my view is that it would do no harm to set out explicitly in the Bill that there are particular protections for particular groups of employees where there is a special public interest in these matters.

Also very interesting is the question whether whistleblowers should have a positive incentive—a percentage of any enforcement penalty. There is the question whether paid informants' evidence is biased as a result. That is not necessarily a problem, but of course it does take the law into a different area, beyond financial services. I would be interested in our thinking further about this issue and reviewing what the options are. We have to catch up with this situation far more effectively and shift the balance. This is all part of changing the culture, so I am glad the Minister has indicated he has an open mind on these issues. For those reasons, I am happy at this stage to beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

## New Clause 11

### Review into competitiveness

'(1) The Treasury shall arrange for a review of the obstacles to increasing competition for UK institutions involved in the provision of core services.

(2) The review must be completed during the period of six months beginning with the date on which this Act comes into force.

(3) The review must consider, in particular—

(a) the major obstacle to new UK institutions emerging as competitors in the provision of core services, and

(b) possible actions that could be taken to facilitate new UK institutions being competitive in the provision of core services.

(4) The review must result in a report to the Treasury.

(5) The Treasury shall lay a copy of the report before Parliament.'.—*(Chris Leslie.)*

*Brought up, and read the First time.*

**Chris Leslie:** I beg to move, That the clause be read a Second time.

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

Amendment (a), line 9 at end insert—

'(c) any evidence of impaired access to competitive core services in identifiable regions of the UK or for particular classes of consumers.'.

New clause 22—*Limits on excessive market power*—

'(1) With effect from 1 January 2020 no ring-fenced body or group of ring-fenced bodies may have excessive market power in respect of a core banking service.

(2) For the purposes of section (1) above core banking service means—

(a) the provision of personal current accounts and overdrafts;

(b) the provision of liquidity management services for small and medium-sized enterprises;

(c) the provision of mortgage services;

(d) the provision of savings accounts;

(e) the provision of unsecured personal loans.

(3) For the purposes of section (1) excessive market power is defined as a market share equal to 20% or higher.

(4) If any ring-fenced body or group of ring-fenced bodies is deemed by the appropriate regulator to have excessive market power in relation to any core banking service for two successive accounting periods, with effect from six months after the end of the second accounting period, the part 4A permission for the ring fenced body or group of ring-fenced bodies shall be treated as having been cancelled as it relates to that core banking service.'.

I wish to advise the Committee on how to handle the debate. It might sound somewhat complicated and convoluted, but I ask Members to consider it patiently. No doubt the Chair and the Committee will work through this; I will advise accordingly.

I shall first call Chris Leslie to speak to new clause 11. During the debate, I will call Mr Durkan to speak to his amendment (a) and then Mr Mills to speak to his new clause 22. If, after the debate, Mr Leslie wishes to press new clause 11 to a vote, we will move formally to the Second Reading decision, followed by a decision on amendment (a), if Mr Durkan wishes to press it, and then a decision on whether the new clause, as amended or not, should be added to the Bill. Government Members may, if they wish, safely vote for Second Reading because they can subsequently vote against the new clause on stand part.

If Mr Mills wishes to press new clause 22 to a Division, the Committee may vote when we reach the appropriate point as listed on the amendment paper. That will be at the end of our proceedings. The debate on new clause 11, amendment (a) and new clause 22 will, however, take place together. I hope that that was helpful.

**Hon. Members:** Hear, hear!

**Chris Leslie:** Thank you, Dr McCrea. May I put it on record that that was one of the finest speeches of your parliamentary career? I am grateful to have been present at a moment of history.

New clause 11 would require the Treasury to publish a review considering the obstacles to new challenger banks and ways to increase the number of new banks. We suggest in the new clause that the review should be completed within six months of this Act coming into force, via a report that should be laid before Parliament. Obviously, there is a whole series of other connected debates, indicated by other amendments that have been tabled, but from our point of view the banking system suffers from a clear lack of competition. Research by the Consumers Association—Which?—found that 55% of people have never switched their main, personal current account. That is astonishing and it would be interesting to poll the Committee, on a show of hands, to reveal who among the best parliamentarians to have spent a long time thinking deeply about such questions have actually switched their personal account since their teenage years. Probably not that many—*[Interruption.] Hansard* will not be able to record this, but a couple of adept shoppers have done so, although they are the exception rather than the rule. Apparently, Dr McCrea, you are more likely to get divorced than you are to change your personal current account. I shall go no further, other than to congratulate the hon. Member for Carlisle.

Britain's largest banks have not earned their market share through innovation or offering a competitive service, but simply because they have that first move advantage. The big five banks—HSBC, Lloyds, Barclays, NatWest-RBS and Santander—have consistently underperformed in customer satisfaction, although some of the banks will claim that they are better than their nearest rival. The big five have a total market share of 85% of the current account market, compared with 71% before the financial crisis, of 67% of mortgage gross lending and of 61% of the savings account market. Customers of British banks have relatively little choice of personal current accounts compared with customers in other parts of the developed world, according to the Office of Fair Trading. Its January report said that competition was weakened by a lack of dynamism among the banks, as well as customer inertia. Various reasons underpin that situation, but we will debate switching current accounts and people's ability to shop around and choose under a different group of amendments. Simply put, there is such a dominance of market share by so few providers of banking services—an oligopoly, as it were—that it is no wonder there is a sense that things are not changing, and there is no pressure to change. That is one of the ingredients that should form the change we need in the culture of the banking sector.

2.45 pm

Sir John Vickers was clear in his report that, even after the limited divestments by Lloyds and RBS, major retail banking markets will still be more concentrated than at the time of the Cruickshank report 13 years ago. Last month the Bank of England and the outgoing Financial Services Authority tried their best to announce new measures to make it easier to open a challenger bank and for new banks to find investors.

For example, the Bank of England and the FSA said that new banks should potentially be allowed to hold less capital than large institutions. That is a very interesting suggestion that we doubtless might want to debate at some point. That might speed up the timetable for authorising new banks, but the key things are the obstacles, particularly regarding the infrastructure they must have to facilitate current accounts. There are clearly ways to overcome those. Hence, we feel a serious review is needed to ensure that we can get to the bottom of these issues.

The Chairman of the Parliamentary Commission on Banking Standards, the hon. Member for Chichester (Mr Tyrie), said recently,

> "The lack of competition in banking has been reinforced by a regulatory regime favouring large incumbents. Customers have lost out as a result. Moves to remove barriers to entry are essential."

It seems there will be significant changes in the forthcoming report, and recommendations from the Parliamentary Commission.

I understand and agree with the amendment put forward by my hon. Friend the Member for Foyle, who wants to look into the customer experience in the regions and nations of the UK. That is a strong and important point to make. I am also interested that the hon. Member for Amber Valley has sought to specify a cap on the level of market share held by a bank—whether that is current account services or others—to limit its market power. I am sympathetic to the point he makes in his new clause, although he has chosen 20%, which prompts the question, "Why not 25% or 15%?" That is no doubt the debate we will have.

I am grateful to hon. Members for furthering the debate and for the thought they have given to their amendments and new clauses, but I would like to press my own.

**Mark Durkan** (Foyle) (SDLP): I have tabled an amendment to new clause 11. I fully support the thrust and logic of the new clause in trying to ensure the outcome that we are all working towards in the Bill, and through other changes taking place: effective and attractive competition in financial services. The new clause provides for a review looking at the obstacles to increasing competition. It seems to me that the scope of the new clause could have been enhanced and stated more pointedly. *[Interruption.]*

**The Chair:** Order. There is a Division in the House, so we will suspend the Committee. I think it is in order for me, on behalf of you all, to wish the hon. Member for Carlisle much happiness for the future. [Hon. Members: "Hear, hear!]

2.49 pm

*Sitting suspended for Divisions in the House.*

3.18 pm

*On resuming—*

[Mr Jim Hood *in the Chair*]

**Mark Durkan:** It is a pleasure to serve under your chairmanship this afternoon, Mr Hood. When Dr McCrea announced that there was a Division, he took the opportunity to offer good wishes on behalf of the Committee to the hon. Member for Carlisle. I am not sure that it was the best cue for such warm felicitations, but we all join in those good wishes to the hon. Gentleman.

I have tabled amendment (a) to new clause 11 not to challenge or diminish in any way the strength of the new clause or its merits as a necessary additional clause that amplifies the Bill's provisions regarding future competition. Rather, amendment (a) aims to make the new clause more effective and more pointed in a couple of respects.

When looking at competition in core financial services, we must recognise that the market is different in different parts of the United Kingdom—certainly in Northern Ireland, which I represent. The banking market there has a different profile from that on the high streets of Great Britain. I want to ensure that any review that looks at issues of competition does not look just generically on a UK-wide basis, or mistakenly at just London and the south-east, but is able to look at issues that might arise in other markets.

I tabled my amendment so that reviews do not have to look at everything in every corner of the UK, but can look at any evidence of impaired access to competitive core services in identifiable regions of the UK. But it is not just a regional amendment, because it goes on to say,

> "or for particular classes of consumers."

As we know, in some instances core services are available on a relatively competitive basis to a large number of consumers, but are not readily accessible and competitively available to certain classes of consumers. Again, the amendment would allow a review to look at any evidence. That is not to say that the review has to exhaustively look at everything that is happening to every consumer or class of consumers, but it needs to be able to respond to any evidence of problems. The evidence could come from many quarters, including consumer interests. It could also come from Parliament, and many hon. Members—not just in this Committee, but elsewhere in the House—have raised such concerns in the past.

On the issue of competitiveness in the context of Northern Ireland, I do not wish to pre-empt new clause 22, but I am interested to hear what the hon. Member for Amber Valley will say when he speaks to his new clause. Does he wish to see the issue of excessive market power measured purely on a UK-wide basis, or can it be applied discretely to particular sectors?

Banks can easily have excessive market dominance in Northern Ireland by controlling more than 20% of its market, but they will count as a fraction of market power in UK terms. We could have a situation where a bank in reality has market dominance in Northern Ireland, but does not count as dominant in the UK market. That is why there are issues about new clause 22. I appreciate and respect its spirit, and I would accept it, but I am not sure how it will work in practice. It might actually have contrary interpretations or applications for discrete regional markets.

We know that the Government are encouraging new players. New clause 11 indicates that part of the review will look at actions for helping new UK institutions to be competitive in the provision of core services. We know that there are some new players already. We have heard a lot about Metro bank, but the chances of Metro bank coming any time soon to a number of the constituencies represented in this Committee—I am not just talking about Northern Ireland constituencies—are not high.

In relation to the review power, I hope that we see the Bill improved at some stage—whether by new clause 11 or an amendment tabled at a later date that encompasses some of the issues that my amendment and new clause 22 highlight—to make clear provision about the competitiveness issue. The application of the competitiveness test should be articulate enough to take account of different classes of consumers and different regional realities.

**Nigel Mills** (Amber Valley) (Con): It is a pleasure to serve under your chairmanship, Mr Hood; it is a surprise that a substitute turned up during the Division.

I rise to speak to new clause 22, which was tabled in my name. I will prevent the Government Whip from having a heart attack on the Front Bench; I am not planning to press the new clause to a Division. I tabled it as a probing amendment to generate a debate. It would not be wise for a humble Back Bencher to write on the back of a fag packet something that could have far-reaching implications for the banking sector. We ought to legislate in a more considered manner. *[Interruption.]* The Minister is laughing; I am not sure whether that is because that is how some legislation gets drafted.

My reason for tabling the new clause is partly to address the issue of competition in the banking sector and partly to address some of the other objectives of this reform of banking regulations. According to my humble, non-specialist approach, we are trying to prevent another banking crisis, or reduce the likelihood of one as far as we can. We are trying to prevent the failure of one institution turning into a systemic crisis that takes down the whole banking sector—or perhaps the whole economy, as we nearly experienced. We are trying to get a better experience for the banks' customers and to fix the moral hazard issue of banks thinking that they are too big to be allowed to fail.

The question that we must try to answer is that if we think that the banks have been too big to fail and perhaps too big to bail, what is "too big" and what are we going to do about it? In itself, ring-fencing will not stop banks from being too big, although it will perhaps have certain key advantages in the other objectives that I will set out.

The shadow Minister asked where 20% came from. I would not protest that I am some kind of scientific economist who can come up with empirical data as to why 20% is the right answer, rather than 19.5% or 20.5%—I accept that his challenge on that is quite reasonable. It was an attempt to find a sensible market share, in which we allow banks to be big enough to have a decent market share so that they can reduce their unit costs without their being so big that they dominate a particular segment of the market and cannot be allowed to fail. If the Minister said that he would accept the principle but wanted 21%, I would not argue the point too far.

It is worth looking at where we got to with our banks over the past decade or so. At the start of the 20th century, the three largest UK banks accounted for only 7% of GDP; by the middle of the 20th century that was 27% of GDP; and by the end it was 75%. A huge concentration took place. In 2007, the assets of the three biggest banks alone added up to about 200% of GDP—that was huge. That was not just a UK phenomenon. In 1998, the five largest global banks accounted for 8% of total banking assets; by 2008, that had doubled to 16%. So we have seen the consolidation right across the world.

It is not a new problem that has been identified since the crash—the 2000 Cruickshank report into competition in the banking sector concluded that there were real problems across all the banking markets and that personal and business current accounts were too highly concentrated in UK retail banking. We have had that information—that we have a problem—around for 13 years now. The OFT looked at it in the early years of this Parliament and it has been considered by the Vickers report. The Parliamentary Commission on Banking Standards is still to publish its view on competition, but I think we will hear some robust recommendations. I am not convinced that it will go quite as far as I have gone with a cap, but we need to get this issue right.

Things have clearly only been exacerbated by what has happened since the crash. We have had 14 separate mergers since April 2008. Between them, the five biggest banks now have 85% of personal current accounts, and the four biggest banks have 78% of the business market. We clearly have a problem. On Second Reading, the Minister posed the question:

"how can Britain be one of the world's leading financial centres without exposing ordinary working people in this country to the terrible costs of banks failing?"—[*Official Report*, 11 March 2013; Vol. 560, c. 36.]

I pose the reply: one way is to stop the banks getting so big that they cause a disastrous failure. The Minister later went on to say that he strongly believed that

"the concentrated nature of the UK banking industry is unacceptable"

and that he wanted

"to see far greater possibility, and indeed reality, of entry into the market"—[*Official Report*, 11 March 2013; Vol. 560, c. 46.]

by new entrants. Clearly, having some kind of cap on how big our banks can be would be one way of saying to new entrants, "Yes, we want you. Yes, the assistance is there, but you cannot be forced out again by enlarged players doing their various tricks to try to squeeze the market—there will always be a decent-sized market for smaller banks across these key sectors."

I do not think that I got new clause 22 perfect, but I was trying to find a sensible theme for us to talk about, so I set the start date as 2020. It is not as if I was suggesting that on Royal Assent, all of a sudden Lloyds—I think it is the only banking group currently in excess of 20% in any of these sectors—would immediately have to dispense with part of its business. Ring-fencing is timed to come in towards the end of the decade, so it would make sense to bring in all these provisions at the same time.

I also tried to deal with what would happen if a bank dropped out of the market and we ended up with an unexpected concentration, or whether a bank that found out at the end of the year that it had crept over the 20% threshold would immediately be in some kind of penalty situation. I was allowing a year's grace—a bank would have to breach for two years before any action was taken, so a bank that did that had time to take some remedial action.

The situation now is that, even after the forced divestment from RBS and Lloyds, Lloyds will still have 25% of the personal current account market and 21% of unsecured personal loans. In small business banking, Lloyds has 21%, RBS 24% and Barclays 18%. In some sectors there is too much power in the hands of too few banks.

3.30 pm

It is worth considering in principle whether that situation is right for a sector so fundamental to the UK economy. Is it an exception in respect of which we should go for some strong market-controlling regulations, such as a cap? For most in my party, a market-size cap would be the last thing that we would want to do. However, this is probably one of the most important sectors for the UK economy. We are saying that we want more competition. We are saying that banks can be so big that they present a danger to the whole economy of the country. Perhaps it would be right for Parliament to put a limit of 20% on how big those banks can be. In the context of my new clause, I would happily accept a slightly different number.

We face the fact that the Competition Commission is reviewing the matter by 2015, but I am not sure that we want the Competition Commission to be driving the process. Perhaps, in the light of the crisis, it is for Parliament to say that we accept we need big banks because they can give the lowest cost and the best value, that we want strong banks, that we do not want a collection of 19th-century-style tiny banks in every town, and that we think 20% in each of the key core banking sectors is large enough to prevent risk and damage to the economy as a whole or to individual customers through poor, fraudulent or exploitative service.

The arguments on competition were well rehearsed by the shadow Minister so I do not need to go through them again. However, I thought we should have a debate on a specific proposal, rather than a request for yet another review. There have been so many requests for reviews in Committee, but I am not sure we have accepted any of them. I think it is better to discuss a suggestion about how to improve the situation.

**Jacob Rees-Mogg** (North East Somerset) (Con): It is a pleasure to serve under your chairmanship, Mr Hood. I was forewarned by Dr McCrea that he was disappearing briefly, so I knew we were having the pleasure of your supervision.

I want to speak mainly in support of new clause 22—at least in its stated purpose, according to my hon. Friend the Member for Amber Valley, of getting a discussion on this incredibly important aspect of banking. I am talking about the concept of too big to fail/bail, what Governments want to do and how they can best regulate to ensure the problem does not arise again.

There seem to be two choices in banking. One is a banking system that is so conservative, cautious and safe that it makes low returns, depositors get a poor deal, interest rates charged on borrowing are quite high and there is a fundamental inflexibility; it is rare for me to use the word "conservative" pejoratively and I will ensure that stays a rare occurrence. That creates a banking system that acts as a huge restraint on growth, allows us to be less competitive than our neighbours and does not enable new businesses to grow, old businesses to prosper or individuals improve their lives through mortgages and personal loans. That is one choice.

The other choice is what we reached in 2008: an incredibly competitive, energetic banking system with amazingly low margins on lending, so that deals could be done on mortgages of LIBOR minus. When interest rates fell to 0.5%, it was argued that people might actually pay negative interest rates on their mortgages, though most contracts had some small print to stop that happening. None the less, the model was fundamentally unsound, because it had become too aggressively competitive and uncontrolled.

In the Bill, we are trying to find a way of allowing a competitive, low-cost banking system that encourages enterprise without having one that is so over-regulated and stultified that we have no economic growth at all. Competition and concentration are at the heart of the matter. A competitive and low-interest margin principle is probably the one that creates a better economy, but that, if there are only a small number of banks, is the one that is most structurally dangerous and leaves the taxpayer with the greatest risk of having to bail the banks out.

Competition is the one thing that can overcome that, because if there is sufficient diversity of banks, banks can be allowed to fail. Although the Bill is trying to make it hard for banks to fail, it ought not to make it impossible, because it is a key part of the system that people know that there is a risk in banking. Indeed, it is a good thing for depositors to know that the reason why they can get a higher interest in bank X than in bank Y is that bank X is less secure. That is why an £85,000 limit on deposit insurance is quite helpful, because that covers people who are unlikely or cannot be guaranteed to have such knowledge. If people have that knowledge, they can make intelligent investment decisions for themselves, but they must then be expected to take the loss if things go wrong. That cannot be done if a bank has 40% of a particular sector of the banking industry.

That is where the new clause of my hon. Friend the Member for Amber Valley is so helpful. We have actually concentrated far too much on deposits and far too little on loans. One of the major reasons for not wanting banks to fail is not only that depositors lose, but also that if a bank fails, the bank's debtors' loans fall due for immediate repayment. The receiver will go to the debtors and say, "You may have a 25-year mortgage, but we need to gather all the funds in today." That, of course, is something that people find difficult to do. That is what causes the bankruptcies. It is not exclusively the loss of deposits; it is the loss of the credit facilities. The new clause goes through all of those. It would limit the provision of mortgage services, unsecured personal loans and current account overdrafts to 20% of market share. That would create a balance on both the credit side and the debit side, which gives an overall view of how competition should work. That would move towards a banking system that can be both highly competitive, but also not at risk of the Government having to bail it out, because the system would allow some banks to fail.

It is an extremely interesting approach that is a market solution rather than an automatically regulator-led solution. One might call it a market-plus solution. It is a market solution with an overlay put in place by Parliament, rather than thinking that the detailed nitty-gritty of regulation will stop things from ever going wrong. I argued earlier in Committee that if the regulation is made too prescriptive, clever people simply finds ways around it, thinking that meeting the letter of the regulation is enough. Something that is competitive-based could be a significant part of the answer to the problem that we had in 2008. I know that my hon. Friend is not going to push the matter to a Division, but it is a sensible issue to be raising in Committee.

**Greg Clark:** It is a pleasure to be serving under your chairmanship again, Mr Hood. This has been an excellent debate and I am grateful for the fine speeches made in it. The hon. Member for Nottingham East posed the Committee a quiz and asked how many members have been with the same bank since their teenage years. I have to report that my hon. Friend the Member for

Chelsea and Fulham told me that he has been with Lloyds since 1982, from the age of 16, and that he chose Lloyds because he won £3 in a quiz when it was offering that to students. It is that level of financial acumen that makes him a fine Treasury Whip and, no doubt, a future Treasury Minister. We are grateful to have him here today.

Competition is immensely important, and I agree with everything that has been said: over and above what we do in regulation, we should look for competition to be the primary means by which we safeguard the interests of consumers, whether they be depositors, borrowers or those who conduct their transaction of services through banks. There is too little competition in the banking sector at the moment. There was too little before the financial crisis, and, as a result of the consolidation that was necessitated by that crisis, there is even less now. That situation is not in any way tolerable. There have been marginal improvements in recent years: shortly after the financial crisis the four biggest banks had a 77% share of the current account market, which is now down to 75%; in 2010 the four biggest banks had 85% of business current accounts. That situation is nowhere near competitive enough and has to be a temporary state of affairs. That is why, in the Financial Services Act 2012, we have given the Financial Conduct Authority for the first time an explicit competition objective, to promote

"effective competition in the interests of consumers."

The PRA must in its actions have regard to

"the need to minimise any adverse effect on competition".

To my mind those measures are long overdue. Our regulatory institutions and, to be frank—turning away from my officials—the Treasury have been insufficiently seized of the importance of competition in financial services in helping consumers to secure the best outcomes. We have a great financial services industry, which has been one of our strengths; one would hope and expect that, in the field of personal financial services, it would be a sector teeming with innovation for consumers—that we would be the country foremost in the world to benefit from the latest technology and thinking. However, I regret to say that I do not think that is the experience. Let us take payment systems and transactions as an example: while in countries in Africa people can make payments using mobile phone technology, in this country most people's experience of cashless payments in a retail setting until very recently has been through the Oyster card set up by Transport for London—a bus company being more innovative in financial services for its consumers than our banking industry has been.

**Stephen Williams** (Bristol West) (LD): I would like to mention an innovation in Bristol, where the Bristol pound, a denomination of the pound sterling, has been launched, and people can use texts to pay in a large variety of independent retailers in Bristol.

**Greg Clark:** I welcome that innovation, and I would like to see more of it. If we are to have, as I very much hope we will, a strong and vibrant financial services sector, it should be the equivalent for financial services of silicon valley in the United States for technology—that is to say, the place that is the cradle of innovation to the benefit of all consumers. The matter that has been raised in this group of new clauses is an important one.

**Nigel Mills:** I do not think that I will get an answer to this, but I will try. The Minister said that four banks having 75% of the current account market and 85% of the small business banking market is too high, so what does he think that should come down to? What would be a success for the regulator in, say, 2020—what should those levels be by then?

**Greg Clark:** My hon. Friend raises a fair point. I am not going to give him a straight answer, because I do not think that there is a target, but it would be very much lower than the current levels. As I shall come on to say when I talk about the new clause in his name, it is for the regulatory authorities to take a view on this matter, as they do on many other sectors. Concentration in industries is a primary variable that is looked at by good and vigorous competition regulators to see what is acceptable.

In terms of recent developments, there is some good news: there has been a marginal reduction in concentration in the last couple of years. Colleagues in the Committee will be aware and will have welcomed the announcement by the Post Office last week that it intends to offer current accounts in every one of its 11,500 branches throughout the UK by 2014. That will see the Post Office become one of the largest providers of financial services on the high street, which is very much a step in the right direction.

3.45 pm

The Independent Commission on Banking looked at competition and made certain recommendations. They identified several problems. First, there is the competitive advantage of large banks by being perceived as being too big to fail, which relates to the point made by my hon. Friends the Members for Amber Valley and for North East Somerset that there is a link between the size of banks and the implicit subsidy that comes from their ability to take on activities that smaller banks could not take on, owing to their confident predictions that they would not be left to fail in the event that their calculations and ventures did not succeed. Through this Bill, and through other measures, we will put in place ring-fencing, bail-in and insured depositor preference, which will protect those who cannot be expected to exercise the necessary degree of financial due diligence on the resilience of banks. Putting those measures in place will reduce the implicit guarantee that has been available to some large banks.

The lack of transparency over pricing of banks' products is another aspect that the ICB looked at. As we have said before, not every one of the ICB's recommendations has found expression in the Bill, because there are other vehicles for them, but the Office of Fair Trading is working with the industry to trial giving consumers, for example, information on interest forgone in various products and transactions.

Another point that the Commission raised was the low incidence of account switching, as exemplified by my hon. Friend the Member for Amber Valley, and the need to introduce a new seven-day guaranteed switching service from later this year; the Government have made a commitment to go further if needs be.

My inclination, as I hope is discernible from my tone, is to go further still. That is why we have made a commitment to bring regulatory oversight to payment systems. Those are currently controlled not just by banks, but by a small sub-set of the banks, so new entrants have to seek the permission of one of the incumbents to piggyback on their services to make use of the payment systems facilities.

It seems right that, just as in other areas where there is the potential for dominance, we bring in that oversight so that small insurgents are not discouraged or crushed should they have the temerity to try to upset the established ways of the incumbents. We will respond to the consultation published on this matter and, depending on the results of that, there will be the opportunity, if necessary, to make amendments to the Bill in due course.

The Financial Services Authority was asked, during the latter stages of its existence, to review the barriers to entry and the barriers to expansion for existing banks. Its report was published recently and it made some valuable changes that will certainly be welcomed by new banks; they allow for a more proportionate capital and liquidity requirement from the start. In particular, the capital that new banks will need to post will fall by up to 80% compared with the status quo and they will not face extra liquidity requirements simply because they are newly authorised, which reflects the fact that if a newly authorised institution starts small, the risks that that poses to the system are different from those of larger incumbents. There will be a faster authorisation process by both the FCA and PRA for new banks, with clear milestones, and the PRA will take a flexible approach to setting capital requirements for existing smaller banks if they can demonstrate that they can be resolved in an orderly fashion without causing harm to the wider financial system.

All of those measures go beyond what the Vickers Commission asked for on competition. So while I am immensely sympathetic to the review that the hon. Gentleman proposes in his new clause, with all of the measures in train a review of the competitive forces six months after Royal Assent seems a little too soon. We should certainly keep under very close review the competitive forces in the industry, not just the Treasury, but the competition authorities, which exist to have this oversight. It might be a little later than that.

I turn briefly to the amendment tabled by the hon. Member for Foyle. These matters are particularly relevant to the regions. As he said there can be an even greater concentration of incumbents there than the national average over the whole of the United Kingdom. Part of the solution is to make it easier to set up new banks, particularly in the regions. There seems to be no reason why we should have the preponderance of our banks as national institutions. In other jurisdictions there is a vigorous local market, based on the local knowledge that can come from people who are based in and serve a particular geographical area. That is much to be welcomed. The 80% reduction in capital requirements should help there.

There are other initiatives that will reinforce this. The hon. Gentleman stressed the importance of credit unions in Northern Ireland. He will be aware of the programme in which the Department for Work and Pensions is providing £38 million to encourage the expansion of credit unions. The regional growth fund is providing £60 million of funding for community development finance institutions, competitors to banks in this regard. As we discussed, credit unions in Northern Ireland will now receive the protection of the FSCS for their deposits.

**Mark Durkan:** Does the Minister recognise that in the context of Northern Ireland at the minute, people are worried that even the existing players will possibly have reduced capacity? Obviously there is the impact of the changes in respect of the Bank of Ireland. First Trust, which is the Northern Ireland brand of Allied Irish Banks, is up for sale. There are serious questions about Ulster bank, as a wholly owned subsidiary of RBS. If the new clause tabled by the hon. Member for Amber Valley were accepted I do not know whether RBS could keep itself right on the 20% in future if it simply sold Ulster Bank and got itself back under it again.

**Greg Clark:** I recognise that there are those problems. The competition authorities should have close regard to what happens in different markets of the United Kingdom. I must own up to having taken some years ago a diploma in European Community competition law, as it then was, and it was a fascinating area of study. It is clear that the definition of markets is not by default the national market but it accords to the practices of consumers. I am absolutely certain that the hon. Gentleman is right in thinking that the Province of Northern Ireland would be deemed to be a particular market in which the full rigour of competition law should apply.

My hon. Friend the Member for Amber Valley was very modest and self- deprecating when introducing his new clause, but what market shares are compatible with competition is a perfectly standard concern of regulators in the anti-trust field. It is for the competition authorities to review that and to look in particular at barriers to entry. Sometimes a high market share will be the result of the effectiveness and the pro-competitive aspect of the market: a particular player will be so successful that without there being any restraints, protections or barriers to entry, it manages to attract a lot of custom. That points to one of the problems with the approach in primary legislation that my hon. Friend recommends: it is double-edged. Banning people from opening accounts with a bank that is successful, because it has reached its maximum quota of accounts or loans, is difficult. The question requires a judgment that is forensic, that looks at the market dynamics, barriers to entry and competitive behaviour, and that takes into account capital requirements. Such processes must be conducted by the competition authorities that have been set up for that purpose. We should look to them to exercise those powers actively.

**Jacob Rees-Mogg:** Is there any remaining opportunity for the Government to look at the banks in which they are the major shareholder to see whether those banks can be broken back up into their constituent parts?

**Greg Clark:** My hon. Friend knows well that our approach is as a shareholder in those banks. We have not nationalised them, so it is not within our disposal simply to change the arrangements without regard to the interests of other shareholders. We had a debate this morning on fiduciary duty. Banks have a fiduciary duty to look after all shareholders. That proposal is much debated, but contemplating it requires certain preparatory steps, which the Bill does not provide.

Setting out starkly in primary legislation a market share cap may have systemic dangers. In the event of a bank reaching its market share limit without there being a buyer for the assets it has for its customers, there would be a question of what is done with that, and whether that bank is caused to fail or is banned from operating as a result.

A high level of concentration is certainly a prima facie case that the market is uncompetitive, but it is not proof positive of that. That is why supervision of the matter should be in the hands of the authorities. It is why we have charged the new regulators with explicit objectives regarding competition. During my tenure in this office, every conversation that I have had with regulators has been to emphasise how seriously I personally and the Government take their important competition duties. Existing competition law also applies. For example, it is an offence to abuse a dominant position in a market. Again, I would be keen for the authorities to enforce that.

I hope that the Committee will understand the strength of the Government's commitment to ensure that the market returns to a more vigorous state of competition. I would want to see the reversal of the concentration that arose as a result of the financial crisis. All the points that have been made today reinforce the need for that, and it will continue to be at the top of my agenda in the discharge of my duties.

**Chris Leslie:** Let us hope that the new Financial Conduct Authority will exercise its powers to promote competitive markets forcefully and fully. It is an incredibly important aspect of banking reform. The debate that we have just had properly reflects the strength of feeling on both sides of the Committee about the need to restructure the way in which banking services are provided, particularly for consumers in the UK. The Minister was right to point out the paradox that, despite our leading position globally, we still have, to coin a phrase used by the hon. Member for North East Somerset, relatively conservative attitudes to banking and banking service provision.

4pm

The hon. Member for Amber Valley made a reasonable interjection on the desire to see proper diversity within the market. Although I asked about the 20% figure, he does not suggest a particularly unreasonable metric. Obviously there would be significant effects on the market of moving in that direction, and there could be some significant consequences depending on the time scales involved, but there are some strong arguments that we should move from having the big five banks to having at least seven main providers within the system. It was incredibly good to hear of the Post Office moving into the current account market last week. That is a sensible decision and it is a trusted brand. It will be well worth while, although I understand that it is being done with the Bank of Ireland in a supporting role. Setting that to one side, though, the Post Office should do well. It has a presence on the high street and should appeal to many customers.

It is a difficult decision, when tabling amendments, whether to pick a particular figure and go for it or suggest a review. We went for the latter, but we want to find an opportunity to keep the ball rolling on this issue. The Minister has said some encouraging and positive things in this debate, but we need firmer milestones along the way. I regret that he said that it will be too soon to have a review. If a review is not the right milestone, the Government should think seriously about what other milestones and stepping stones along the way might be good devices to concentrate minds. Through that we would see some progress in the right direction.

My hon. Friend the Member for Foyle was right to highlight the different patterns of banking market that can occur across the different regions and nations of the UK and the historical banking patterns that many customers will have. That is firmly part of the Opposition's agenda in promoting banking reform. We want to keep the Government's feet to the fire on this issue. Far more action is necessary to diversify the sector, and we will undoubtedly want to return to this issue, which is a central part of banking reform, at a later date, but given the hour, I beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

## New Clause 12

### Bank account portability

'(1) Within six months of Royal Assent of this Act the Chancellor of the Exchequer shall lay before Parliament a report considering—

(a) the adequacy of the current account redirection service,

(b) legislative options for mandating the provision of a current account redirection service by UK ring-fenced bodies.'.—*(Chris Leslie.)*

*Brought up, and read the First time.*

**Chris Leslie:** I beg to move, That the clause be read a Second time.

**The Chair:** With this it will be convenient to discuss the following: New clause 13—*Financial inclusion*—

'(1) In the Financial Services Act 2012 section 6 which inserts section 1B into FSMA 2000 after subsection (5)(b) insert—

"(c) the ease with which consumers can have access to financial services and products which are affordable and appropriate to their needs.".'.

New clause 15—*Basic bank account guarantee*—

'(1) All UK institutions providing the regulated activity of accepting deposits must—

(a) make a "basic bank account" available to all who request it, and

(b) offer a "basic bank account" to people denied access to a current account due to a poor credit score.

(2) The requirements in subsection (1) do not apply to people with a record of fraud.

(3) In this section "basic bank account" means a current account which—

(a) provides customers with a debit or ATM card,

(b) does not have an overdraft function,

(c) does not pay interest on deposits, and

(d) does not incur periodic fees.'.

**Chris Leslie:** These new clauses raise a number of issues that again largely flow from the debate we had about competition. They focus on the customer experience in banking and the degree to which there is flexibility and convenience for customers as well as accessibility to basic banking services.

New clause 12 would lead to a report being laid before Parliament that properly dug into the adequacy of current account redirection services and whether legislative options were necessary for mandating the provision of a proper current account redirection service by ring-fenced banks. The Minister has highlighted the moves by the Payments Council to introduce the new current account switching service by September. The service is intended to give customers the ability to switch accounts in seven working days, which is a step in the right direction, but I am not yet convinced that that will be adequate.

The critical point is not just about coaxing a customer into believing that a switch of current account will not lose their direct debits and standing orders. People have lots of outgoings in their current accounts and many of them are wary of something being lost in the transfer from one bank to another. Technology these days should prevent any such thing from happening. The crucial point relates to income payments into a current account and the sheer hassle and inconvenience for the customer of having to give a new sort code and account number to their employer so that their salary can be redirected.

The Payments Council and the British Bankers Association say they will apply the new switching service to payments into an account, as well as to outgoings from it, but only for a limited number of months, so the question of bank account number portability comes to the fore. If our mobile phone is stolen or whatever, we can retain the same mobile phone number, and that is incredibly important to the functioning of that market. Having that telephone number is essential, and there are, similarly, good arguments for saying that an account number and sort code are central to people's sense of ownership of their current account and their trust in it. For example, they may have a great aunt who deposits £5 in it every Christmas as a present. Similarly, they may not want to tell their employer the new details. If we are to make it easy for people to switch account, we must ensure that they do not have to go over a whole series of administrative hurdles to give everybody their new details.

I welcome the fact that there is some movement in the new switching service towards payments into accounts, but that redirection will operate for only 13 months from the date when the customer switches. That is something, but it does not go as far as I would like, and a review needs to be carried out. Some Members are very keen on account number portability, and that cuts across both sides of the House. Account number portability is so simple and has such appeal that I can see it eventually coming to pass. The Government need to give an indication that they will keep it on the agenda.

The Vickers Commission highlighted that, on average, customers move current accounts every 26 years, so there are clearly significant impediments to doing so. However, some banks and consumer groups are starting to talk much more about account portability. The consumer group Which? has called for a proper cost-benefit analysis. Virgin Money's chief executive has said that it is pushing for portable account numbers. There is therefore a sense that the mood is changing among specialists in the area, so I hope the Minister will look positively on new clause 12.

New clauses 13 and 15 relate to the accessibility of banking services. New clause 13 would compel the Financial Conduct Authority to have regard to access to affordable and simple financial services. It would amend the list of general duties in the Financial Services Act 2012. In parallel, new clause 15 would compel high street deposit takers to offer a basic bank account to all people who request one, with the exception of those with a conviction for fraud. A basic bank account is defined as one that comes with a debit or ATM card, but not with an overdraft facility, so I am talking about a simple, basic account, not a line of credit. With the advent of universal credit, such banking services will be especially important, and perhaps the Minister can tell us whether the Department for Work and Pensions has shown any interest in this issue. These days, it is a necessity for people to have such banking services.

Both new clauses aim to tackle financial exclusion, particularly where poor or disadvantaged communities cannot access bank account facilities or simple products in the way that many other parts of the country can. It is not as easy as saying, "Let competition sort all these things out," because certain margins and rates of return will not be as high on such basic services, so there needs to be a social requirement. The universal service obligation is an important principle, and the former financial inclusion taskforce at the Treasury did prioritise these issues, but things have slipped back badly, particularly given the chipping away at the LINK ATM cash machine network, with some of the main banks starting to withdraw support for it. The Minister must firmly draw a line in the sand and state that basic bank account services should be available for poor or disadvantaged communities.

**Greg Clark:** As we have discussed, access and competition are both important, as are switching and portability. Switching is necessary—it was recommended by the Vickers Commission—but it is not sufficient, which is why we propose to go beyond what the Vickers Commission recommended and bring payment systems within regulation. The switching service will begin in September, and the Payments Council is minded to run a substantial promotional campaign to bring to the attention of people who might benefit—including my hon. Friend the Member for Chelsea and Fulham—the fact that they can switch bank accounts. We look to the industry to make people aware of how straightforward and simple the process should be. From September, 99% of personal current accounts will be covered by the switching regime, and we will monitor its impact.

There is a strong case for account portability, and one feature of our proposals for a payments regulator is that such a regulator will have the power to require full account portability. We expect the payments regulator to be up and running by late 2014, and it will be in a position to carry out the type of review that is proposed as soon as is expedient. Subject to the consultation, the payments regulator will be well placed to conduct and enact decisions at more or less the time outlined in the new clause. I hope and expect that, in practice, we will be able to go beyond what the new clause would require by setting up a regulatory power to enforce the provisions rather than simply to review them.

New clause 15 concerns basic bank accounts. Access to financial services is crucial, as the hon. Member for Nottingham East says, and having a bank account is increasingly essential to modern life. It is important for everyone to be able to manage their money securely, confidently and effectively. The new clause is intended to guarantee access to basic bank accounts in statute, but the major UK banks have, in fact, voluntarily agreed to offer such accounts.

The number of adults who do not have access to a bank account has fallen from 3.6 million in 2002-03 to 1.5 million. That is still 1.5 million too many, but basic bank accounts are now available to everyone apart from those people with whom, as the hon. Gentleman recognised, there are more difficulties—those who have a record of fraud or money laundering. Only one bank offers basic bank accounts to undischarged bankrupts, but the Insolvency Service will propose legislation to address that and to widen availability in that area. We agree strongly with the aim behind the new clause, but when we have such comprehensive coverage that mirrors the proposals in the new clause, we do not need to legislate so much as to drive take-up.

New clause 13 would insert a new "have regard" provision by requiring the Financial Conduct Authority to have regard to

"the ease with which consumers can have access to financial services and products which are affordable and appropriate to their needs."

In the debates on the Financial Services Act 2012, we agreed to provide the FCA with a requirement to have regard to access to advance its objective of

"promoting effecting competition in the interests of consumers."

In particular, the FCA

"may have regard to the ease with which consumers who may wish to use those services, including in areas of social and economic deprivation, can access them."

That was included to put it beyond doubt that we expect the FCA to play a role in promoting access and inclusion specifically in deprived communities.

4.15 pm

The language in the new clause and the 2012 Act is very similar. That reflects the fact that the intention is the same. The only difference is that the "have regard" provision in the Act is in the context of promoting effective competition in the interests of meeting consumers' needs. That is an important distinction. We should not expect the regulator to direct pricing or whether a bank operates in a particular geographical area, for example. I do not think the regulator can order a bank to operate in a particular area. Its function is to ensure that the market serves these areas, not to direct individual commercial firms to do so. Where creating the right competitive environment does not deliver—this refers back to our previous discussions—it is for the Government to step in, not the regulator. The means through which that can happen is support for credit unions, for example, and the provision of bank accounts to support the universal credit. Again, the intention behind the new clause is very much shared, but I do not think its provisions are the best way of addressing the matter. I hope that the Committee has been able to take a clear view of the Government's intention on these important matters.

**Chris Leslie:** The Minister has been very helpful in setting out the Government's policy on these issues. He understands that many of our constituents find it difficult to access basic banking facilities. The figure of 1.5 million people struggling to get basic bank account services is quite shocking, particularly given the imminent changes to social security and universal credit.

I am not quite sure that I share the Minister's emphasis on the role and duties of the Financial Conduct Authority. It should not just be a market arbiter. It should be a consumer champion. We are looking to the FCA to take a much more proactive role, particularly by standing up for customers who are not able to vocalise or bang the table in the way that others can. That means ensuring that there is a basic utility service for all parts of the country.

We feel strongly about these issues. They go hand in hand with the downstream issues of competition and customers' ability to choose, vote with their feet and have a better choice of current accounts. I am glad to hear that the Treasury believes there is a strong case for account portability. I look forward to the outcome of the discussions and reviews the Minister has set in train with the changes to the payment account and the payment system more broadly. It is important to emphasise that the regulator should play a role in many of these matters, particularly affordable and accessible financial services. It is useful to have had the opportunity to put those points on the record. I beg to ask leave to withdraw the clause.

*Clause, by leave, withdrawn.*

## New Clause 14

Publication of trends in bank lending

'(1) After section 1E(2) of chapter 1 of Part 1A of FSMA 2000 insert—

"(3) The FCA shall collate and publish anonymised consumer and business lending data disaggregated by UK financial institution and presented on a postcode-level basis.".'.—*(Chris Leslie.)*

*Brought up, and read the First time.*

**Chris Leslie:** I beg to move, That the clause be read a Second time.

In the United States there has been quite a significant debate in recent years about what are often called lending deserts, those parts of their country where access to credit and other banking services was less available than in other parts of the country. It is an even more acute problem in this country. It is not just an issue for personal current accounts; small businesses wishing to access banking services often feel as though their location could inhibit their access to certain services. They could feel indirectly discriminated against because of postcodes or geography—the part of the country in which they are located.

New clause 14 would ensure that, in the Financial Services and Markets Act, we provided a power for the Financial Conduct Authority to

*[Chris Leslie]*

"collate and publish anonymised consumer and business lending data disaggregated by UK financial institution and presented on a postcode-level basis."

The new clause would give transparency and information, so we can hold the banking sector to account much more. We want to see greater granular detail, breaking down the patterns of banking activity in different parts of the country.

During the progress of the Financial Services Bill through the House of Lords, a cross-party alliance of peers—including Lord Sharkey, Baroness Kramer, Baroness Hayter, the now Archbishop of Canterbury and others—backed an amendment that called for the FCA to

"require each holder of a banking licence to publish relevant data each quarter, by post code, including the total amount of lending to small and medium sized enterprises."

In response, Lord Newby confirmed that the Government would pursue that aim through an industry-led initiative backed up by the threat of legislation in the current Bill. He said:

"we will work with industry to collate and publish lending data that is disaggregated by institution and presented on a postcode-level basis. The Government will take this forward as an urgent and pressing matter. In reiterating our commitment to make progress in this area, I confirm that should our negotiations with industry fail to deliver—I sincerely hope that that does not happen—the Government will introduce amendments to the Banking Reform Bill along the lines proposed in the amendment".—[*Official Report, House of Lords,* 12 November 2012; Vol. 740, c. 1359-1360.]

That was back in November. I asked the Minister in a written question in February whether the Government had made any progress on this issue, as we are now in Committee and there is an opportunity for the Minister to consider fulfilling the commitment that the Government made in the other place. The Minister reiterated that the Government were still trying

"to secure a commitment from the banks that they will publish postcode level data by institution."—[*Official Report*, 28 February 2013; Vol. 559, c. 655W.]

He also confirmed that the amendment option still existed.

I would like the Minister to update us on what is happening on this issue. It is important that we see what is happening inside the sector. We are not looking for personal information or for breaches of data protection; we are asking for anonymised patterns of lending activity. If we are going to talk about how the banking sector is serving our communities we have to have that basic level of information, so that we can see whether we need a regional banking sector or other forms of intervention—there has been talk of investment banks and various other measures. If we are going to get that policy right, having a better and more detailed impression of what is happening in the market is essential.

**Greg Clark:** The hon. Member for Nottingham East is right that this matter is important. As he alluded to, during the passage of the Financial Services Bill through the House of Lords an amendment was tabled to the effect that

"the Financial Conduct Authority must require each holder of a banking licence to publish relevant data on a quarterly basis by post code, including the total amount of lending to small and medium sized enterprises."

The amendment was withdrawn because the Government committed to work with the industry to get it to make a voluntary commitment to publication. In giving that commitment on 12 November last year, Lord Newby confirmed that the Government would amend this Bill to require the publication of those data if agreement was not reached.

Since then, the Treasury, the Financial Conduct Authority and representatives of the banks have been in discussions, in particular with the Information Commissioner's Office and the Office of Fair Trading, to agree a scheme through which the data could be disclosed. That needs to be done properly and in a considered way, because there are risks here; the hon. Gentleman would be the first to criticise the Government if, inadvertently, personal and sensitive information about the financial affairs of individuals reached the public domain because this matter was addressed in a way that was less than fully thought through. To give an illustration of the case in point, postcode data are clearly the means that is envisaged, but certain postcodes—not even those at the lowest level—are capable of identifying individuals. There are areas in which there are very few properties—perhaps only one property—and the effect of disclosing the lending information by postcode would be to reveal to the public a particular person's indebtedness. That is clearly incompatible with many aspects of the banks' obligations, some of which are policed by the Information Commissioner's Office. So the work is painstaking. The reason why we have not tabled an amendment at this stage is because we expect to be able to conclude such an agreement. The goodwill has continued; it is the technical aspects that would prevent any such unintended consequences that are being discussed.

We want to go further than the commitment that was given in the House of Lords. We want to see, for example, consumer and mortgage lending, as well as small and medium-sized enterprises, covered. The ability of individuals to obtain credit is an important matter, and we should make this measure as comprehensive as possible. We intend to keep our commitment, and we are confident that we will be able to keep it. I can confirm to the Committee that even though we expect agreement, if necessary—and we do not think it will be necessary—we will table amendments to the Bill when it reaches the House of Lords if, as is not expected, agreement falls away. I will, of course, update the House as soon as an agreement is reached, and make it available for scrutiny by hon. Members. One way or another, the commitment that was made seriously under the terms of the amendment will be kept by the Government in the months ahead.

**Chris Leslie:** I am grateful to the Minister for that update. He will have to forgive us for pushing and prodding in a slightly formal way by tabling a new clause in this manner. But he would not expect anything less from us, given the importance of this issue as a prerequisite to learning and thinking through where policy reform should go in the future.

I do not think that the risks of postcode data are insurmountable. We have called specifically for anonymised disaggregation, and I am sure that we can find a way to do that in a way that is less likely to jeopardise such disclosures. However, I accept that that is an important point of detail, and it is important that we get the technical level right. I am glad to hear that the Government are still making progress. It would have been helpful if the Minister had set out some sort of time scale for concluding this issue. If by Report we still have no further news, that would be pretty bad given that this started back in November. By then it would be reasonable to expect a conclusion to the issue, but that is just my feeling about the progress of this issue. I am grateful to the Minister for reiterating the Government's support for this issue; I just do not want to see it fall behind and go on to the back burner. Given the Minister's commitment and his assurances, I beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

**New Clause 18**

MUTUAL SOCIETIES

'After section 50(3)(f) of the Financial Services Act 2012, insert—

"(g) making provision for the increased diversity of the financial services sector and promotion of mutual societies, including arrangements to measure the number of members of mutual societies, and the market share for mutual societies as a proportion of the UK financial services sector.".'.—*(Chris Leslie.)*

*Brought up, and read the First time.*

**Chris Leslie:** I beg to move, That the clause be read a Second time.

The coalition agreement, that wonderful document—*[Interruption.]* I say that in a sarcastic way, just for the record—that certain members of the Committee will remember with great fondness, although most of us will not, made a promise that the Government would

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

It is the fact that, three years on from the coalition agreement, we are still waiting for action to promote mutuality that has caused us to table this new clause. It would simply insert into the 2012 Act a requirement that regulators and the Government should make

"provision for the increased diversity of the financial services sector and promotion of mutual societies, including arrangements to measure the number of members of mutual societies"—

in other words, whether more people are working with co-operatives or building societies, or less—

"and the market share for mutual societies as a proportion of the UK financial services sector."

4.30 pm

Building societies form a vital part of the British financial services sector, with mutual lenders and depositors currently having total assets of around £375 billion. Together, with their subsidiaries, they hold residential mortgages of £245 billion. They hold more than £250 billion of retail deposits, which accounts for more than a fifth of such deposits in the UK, and employ approximately 50,000 full and part-time staff and operate through approximately 2,000 branches.

In the past, both sides of the Committee have expressed, at one level or another, agreement that there should be a greater role for mutuals in the financial services sector; indeed the Deputy Prime Minister himself—for it was he—has repeatedly extolled the virtues of models of shared ownership and the "John Lewis economy" at various times. Mutuals have consistently achieved higher levels of customer satisfaction than other financial services providers, as demonstrated in last year's Which? consumer survey, in which five of the top ten financial brands in the UK are mutuals.

It would be helpful if the Government would take this opportunity to live up to the pledge that they made when forming the coalition and state specifically what steps they are taking to promote mutuals. We have had a lot of words and general support, but we want to see specific hard measurements agreed to now so that we can track the progress of the coalition agreement three years on from its inception and see how they intend to fulfil that pledge by the time of their demise in 2015.

**Greg Clark:** Of course, the problem we have to address is the shrinkage in the number of mutuals that happened because of the financial crisis which has left us with rather fewer than we would have liked. The hon. Gentleman is right to refer to the coalition agreement as committing us to making it easier for mutuals to establish themselves and flourish. We certainly retain that commitment and actively pursue it.

In this Bill alone—we have mentioned this in earlier sittings—we exempt the building societies movement from the definition of ring-fenced bodies and we use the existing building societies legislation to bring them in line with the ring-fencing provisions. That measure was supported enthusiastically by the Building Societies Association as being most likely to respect their particular arrangements, rather than to seek to co-opt them into unfamiliar arrangements.

The Financial Services Act 2012, on which the hon. Gentleman participated, introduced a new requirement into FSMA for regulators to analyse the impact of any of their proposed rules on mutuals, which was an important new insertion. It also ensured that the Financial Services Compensation Scheme protection was extended to credit unions in Northern Ireland. As we have discussed, that has helped to address a particular problem that was there, and hopefully that will encourage confidence in that particular mutual sector.

The Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2011 was an important measure to reduce the burdens on establishing mutuals, which came into effect in January 2012. It allows, for example, credit unions to admit corporate bodies, such as charities and small businesses, into their midst, and it allows them to offer interest on deposits for the first time. That is important to allow them to be competitive with banks; something that we all want to see.

The Law Commission is drafting a co-operatives consolidation Bill, which the Treasury will introduce by the end of 2013. It will rationalise a dozen pieces of legislation that add up to the burden of establishing and running mutual organisations. Ed Mayo, the secretary-general of Co-operatives UK, has said that the Bill would make it easier and cheaper to establish co-operatives in this country. In this year's Budget, the Chancellor said that we will consult on proposals to make it easier for industrial and provident societies to raise capital.

Regarding the alacrity with which we are discharging our commitments in the coalition agreement, I do not think we can be faulted at all for pursuing our commitments with vigour. The only source of regret is that it has been necessary to recover from the situation that we inherited, in which we lost some valuable mutual organisations.

**Chris Leslie:** It is interesting that the Minister feels that he is doing well on the issue. Will he at least report to the Committee what has happened regarding the market share of mutual societies as a proportion of UK financial services? It is a genuine question; I do not know the answer. Is there a way of keeping track?

**Greg Clark:** There is indeed. That is the import of the new clause, which would require information to be published to

"measure the number of members of mutual societies, and the market share for mutual societies as a proportion of the UK financial services sector."

That is a perfectly reasonable question to ask.

The information requested by the new clause is already available in the public domain. For example, the first request is the number of members of mutual societies. There are 20 million such members. Regarding the market share as a proportion of the UK's financial services sector, the mutual sector has a 17% share of residential mortgages, a 19% share of retail deposits, and a 31% share of individual savings accounts in the UK. That information is available online. The hon. Gentleman asked me about the change in recent years, and I am happy to write to him on that.

The information is available, and it is quite right that it should be. The sector is important, we want to see it grow and we are already able to monitor the extent to which it does. The debate has been an opportunity for us to discuss the importance of the sector. There is no need for a statutory provision for the information, because it is already provided and available to the public.

**Chris Leslie:** It is important to hold the coalition to account on their pledges. Promoting mutuality is certainly an important pledge. It is not good enough simply to fall back on the Law Commission's Bill, which is an amalgamation of existing legislation into a single statute. It might make for simpler reading, but it would not necessarily alter the general direction of travel and lead to a renaissance of the mutual and co-operative sector in financial services.

**Greg Clark:** I think the hon. Gentleman is being a bit churlish. The secretary-general of Co-operatives UK has said that the Bill would make it easier and cheaper to establish co-operatives. That surely is a reliable indication that it would help.

**Chris Leslie:** It is certainly a worthwhile exercise, but I am not sure that it would necessarily change the general realities of the legislative framework in which mutuals operate. If there are nascent mutuals that have been burdened by the weight of the different statutes, and they would in future be able to read through them in a simpler way, that is certainly a good thing. However, I do not think that it is necessarily a big enough fig leaf to cover the Government's blushes.

The Bill would be interesting, and the Government's work on capital raising and capital adequacy is certainly more substantive. It is also important that we analyse the impact of regulatory changes on mutuals. Those are small steps. I am left wanting to see further action and more forceful steps. We will continue to call for that. However, given the Minister's helpful commitment to write to me and the Committee on the direction of travel trends in market share, and the number of members of mutual societies, thereby giving some feedback in response to the new clause, for the time being, though we might want to come back to the matter, I beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

## New Clause 20

### Annual assessment of developments in respect of risk-weighting

'(1) The Bank of England must, at least once in every year, prepare an assessment of developments in respect of risk-weighting in relation to banks and building societies.

(2) The Bank must send the assessment to the Treasury.

(3) The Treasury must lay the assessment before Parliament.

(4) The Bank of England must publish the assessment in such manner as they think fit.

(5) In this section "risk weighting" means the process by which the assets of a bank or building society are accorded a risk weight.

(6) In this section—

"bank" means a UK institution which has permission under Part 4A of FSMA 2000 to carry on the regulated activity of accepting deposits, other than any description of institution excluded by virtue of subsection (2)(b) of section 142A of that Act from being a ring-fenced body as defined in subsection (1) of that section (or a building society);

"building society" has the same meaning as in the Building Societies Act 1986;

"risk weight" means a percentage that is derived from the risk to the value of an asset.'.—*(Chris Leslie.)*

*Brought up, and read the First time.*

**Chris Leslie:** I beg to move, That the clause be read a Second time.

**The Chair:** With this it will be convenient to discuss amendment 33, title, line 4 after 'insolvency;', insert

'to make provision for reports relating to developments in respect of risk-weighting;'.

**Chris Leslie:** This may look like a complicated and technical issue on which to conclude our deliberations. However, the Committee will recognise that, once the technical jargon is cut through, it is quite straightforward. Risk-weighting is a device used in the capital adequacy regulations of banks, alongside the leverage ratio that we debated earlier. It is calculated by multiplying each type of asset class on a bank's balance sheet—Government bonds, mortgages, derivatives and so on—by a risk weight. That could be 0% for assets considered very safe such as Government bonds across the OECD, and 100% for assets judged riskier, such as corporate loans. They are added up to form a risk-weighted aggregate.

Under the Basel III arrangement, banks will be required to have equity capital of at least 7% of risk-weighted assets by 2019, while risk weights have also been tightened. The Financial Stability Board of the Basel Committee made some suggestions and policy recommendations on that, particularly for globally significant financial institutions. The Vickers Commission said that the Basel Committee proposals did not go far enough for several reasons, including the fact that the backstop leverage ratio in the Basel proposals was too lax, and that it looked only at banks of global systemic importance, rather than national systemic importance. The Vickers Commission said that the international debate on loss absorbency was "unfinished business".

Vickers recommended that ring-fenced banks with a ratio of risk-weighted assets to UK GDP of 3% or more should be required to have an equity-to-RWA ratio of at least 10%; and that ring-fenced banks should also have requirements placed on them.

The new clause would mandate the Bank of England to publish a report annually on the progress of risk-weighting banks and building societies. That is fairly straightforward. We cannot claim full responsibility for some of these matters. Indeed, the Parliamentary Commission on Banking Standards recommended certain aspects. However, we feel that this is an important set of proposals.

The provisions would bolster the risk-weighting process, which definitely needs improvement; several witnesses to the Parliamentary Commission explained that was essential. For example, Michael Cohrs of the Financial Policy Committee was firm in his description of some of the inadequacies of the system. The Parliamentary Commission concluded:

> "Risk-weighting has, however, been unsatisfactory and arguably dangerous in practice. Banks were allowed to set their own risk-weights using their own models. Some of the weights were much too low. The zero or low weights attached to government securities have encouraged banks to acquire large amounts of what were in some cases very risky assets. Many governments have an incentive not to address this, because of their need to fund large deficits. Parliament needs to be assured that the work to improve risk-weighting is being given the highest priority. The Commission recommends that the new Bill require the Bank of England to provide an annual assessment to be laid before Parliament of progress of risk-weighting and that the assessment should examine in particular the possible operation of floors for risk-weights, and steps taken with regard to simplification of risk-weights and trading exposures."

That is a very sensible process and an incredibly important part of making our banks safer. We are disappointed that the Government have rejected the Commission's proposal for that annual assessment by the Bank of England of progress on improving the risk-weighting arrangements. It is not good enough just to leave the matter to the international bodies and to have that de minimis, lowest common denominator approach. Our system, as we discussed in the debate about leverage ratios, also needs properly to address risk-weighting. It is a loose end that needs tying up and properly sorting out. I commend the new clause and amendment 33 to the Committee.

4.45 pm

**Greg Clark:** It is good to reach the final new clause and amendment on a note of relative consensus. Risk-weighting is important, and my hon. Friend the Member for North East Somerset made a notable speech on the subject earlier in our proceedings. The primary capital requirements under Basel III are based on banks' risk-weighted assets. Those risk weights must therefore be reliable and credible. The Parliamentary Commission correctly noted that some risk weights performed badly in the last crisis. Extensive work is under way to review risk weights and has, to some extent, already been implemented. For example, the capital requirements directive III, which was implemented in 2011, significantly increased the risk weights that applied to complex securitisations. The Basel Committee and the European Banking Authority have begun separate reviews of risk weights and risk-weighting methods. The EBA expects to report by the end of 2013 and the Basel Committee by the end of 2014. *[Interruption.]*

**The Chair:** Order. The Whips should know better than to have discussions in Committee.

**Greg Clark:** Thank you, Mr Hood. The Financial Policy Committee of the Bank of England recommended that the PRA ensure that banks take a prudent approach to the calculation of risk weights.

Two questions arise from new clause 20. First, who should conduct such reviews? Secondly, what should be the timing of the reviews? On the first, the Bank of England is specified as the body that would conduct such reviews of risk-weighting. That is certainly possible, but there is a question about whether it should be the FPC or the PRA. After all, the PRA has the ability to review and adjust risk weightings in relation to individual firms and the financial services sector more generally. On the second question about the timing of reviews, we would want to consider, given the international work being done to conclude at the end of this year and the next, to which the UK is a significant contributor, when might be the next time that such a review should take place and how frequently reviews should happen.

Notwithstanding the approach that we have hitherto taken, there is much merit in the new clause's approach and we will consider it and report back at a later stage on what arrangements are best put in place to keep the important matter of risk-weighting under review.

**Chris Leslie:** That is a useful commitment from the Minister. The risk-weighting issue formed a central part of the thoughts of the Parliamentary Commission on Banking Standards. While the question is clearly technical, it all boils down to ensuring that our banks are safe, that we do not just leave it to them to self-regulate and that some firm, robust and rigorous regulation is put in place, which is why we tabled the new clause. We will want to pursue the issue and will certainly hold the Minister to account for his commitment on Report. I beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

**Greg Clark:** On a point of order, Mr Hood. May I make some concluding remarks, since we have reached the end of the Committee's scrutiny?

First, I thank you for your ministrations in the Chair, and those of Mr Turner, who joined us for some of our deliberations. We have had the pleasure of Dr McCrea's chairmanship during much of the Committee. He brought a degree of procedural precision exemplified in a magnificent speech that he made this afternoon, which has been praised as one of the finest he has ever made in Parliament, such was its attention to detail. Mr Bone, one of the original Chairs of the Committee, brought valuable experience of chairing other financial services Bills. He

*[Greg Clark]*

is a particular stickler, we noted, and procedure on the passing of notes attracted his attention, rather as the conference between Whips has attracted yours, Mr Hood. I do not know what we have done to deserve such strict Chairs, but we have enjoyed it.

This has been an exceptionally enjoyable Committee. We have made good progress, and considered in detail all the amendments and new clauses—in less time than was allocated, or than we expected we would need. We learned a lot on the way. We have discovered, as hon. Members may recall from an earlier sitting, that my hon. Friend the Member for North East Somerset is contemplating going on Twitter. It is perhaps even more surprising that he has an alter ego who tweets on his behalf. We are still unpersuaded that he can be imitated.

Furthermore, during the progress of the Bill, there has been a distinct mellowing on the part of my hon. Friend the Member for Amber Valley. Today he proposed a cap on the market share that the banks should have. Some might think that a pretty rigorous approach to financial regulation, but they should reflect on some of his earlier remarks. I seem to remember from a previous sitting that he is on the record as calling for the electrocution of bankers. We are grateful that he has mellowed.

I am delighted to see the hon. Member for Kilmarnock and Loudoun back in her place. Not only did she manage to extract commitments from me to consider carefully and positively some of her suggestions, but she achieved a record in persuading me to back one of the Opposition's amendments. It is fair to point out that it consisted of a single word—but it was a very fine word indeed, and I am happy that I could back it.

The hon. Lady invited me—slightly mischievously, I think—to praise what she repeatedly referred to as "the institution". Hon. Members will recall that she was referring to the EU this morning, but she thought that I was praising the institution, and was saying what a good one it is. With deference to my hon. Friend the Member for Carlisle, who has recently married, I will reflect only on Groucho Marx's comment that marriage is a wonderful institution—but who the hell would want to live in an institution? I think that that applies to the institution that the hon. Lady mentioned.

The Committee has been enjoyable and has made good progress. We have had serious discussions and given the Bill good scrutiny. Amendments have been tabled from both sides, and at various times the Front Benchers were channelling the Parliamentary Commission on Banking Standards. From time to time the hon. Member for Nottingham East, and even the hon. Member for Kilmarnock and Loudoun, were the representatives on earth—or at least in Committee—of my hon. Friend the Member for Chichester. We are grateful for their work in informing our discussion.

Like you, Mr Hood, I thank the Committee Clerks for their good advice and patience throughout the Committee. I thank my changing retinue of officials, who have not been too furious or bundled me away when I have failed to follow their advice and substituted my own speaking notes for those that they urge on me, entitled "Resist." I am afraid that I have resisted their advice to resist.

I would like to thank the *Hansard* reporters for their work in transcribing the debates, and the Doorkeepers, who have had an important role to play and have occasionally been indulgent. At a couple of points I think that the alacrity with which we have made progress through the Bill has caught short some members of the Committee, including my hon. Friend the Member for Reading West, who just managed to get through the door as it was closing. I think that the hon. Member for Telford had to apply for temporary membership of the Social Democratic and Labour party when he made the approach today.

It has been a great pleasure to participate in this Committee. I look forward to coming before the House on Report and Third Reading, and, once again, I am grateful to all Members for their contributions.

**Chris Leslie:** Further to that point of order, Mr Hood, with an eye on the time and not wanting to repeat the Minister's speech, may I also thank all Members who have served on the Committee, particularly those on the Opposition Benches? It is not an easy task when one gets a note through saying, "Hey, come and join us on the Financial Services (Banking Reform) Bill for an inordinate period of time," but they have been very assiduous in their contributions.

I echo the thanks to those who have chaired the Committee, including yourself, Mr Hood. I also think it appropriate for the Opposition to put on the record our thanks to the hon. Member for Chichester and the members of the Parliamentary Commission on Banking Standards, none of whom decided to serve on the Committee for the Bill to which they had given pre-legislative scrutiny. I hope we will have a chance to hear their direct input on the Floor of the House on Report.

The officials have clearly been working very hard, and I would also like to pay tribute to Treasury officials. Sometimes, the Opposition give the impression that we attack the Treasury, but I can assure them that our ire is reserved for the Ministers, not for them directly. I would also like to thank the Clerks and my own staff, Peter Edwards and Joe Atkinson, for their help in drafting as many amendments and speaking notes as we have required for the Committee.

I would obviously like to place on the record my thanks to both the Whips, to whom thanks should always be recorded, and in particular to my colleague the hon. Member for Kilmarnock and Loudoun. It was suggested earlier today that we could be regarded as the Torvill and Dean of the shadow Treasury team—I am quite happy with that Nottingham-oriented comparison, but this is not our "Bolero" in any way, shape or form. We will come back and no doubt work in close concert on future Finance Bills that are not a million miles away.

I would like to thank everybody involved with the Committee.

*Bill, as amended, to be reported.*

4.59 pm

*Committee rose.*