



House of Commons

Tuesday 19 March 2013

PUBLIC BILL COMMITTEE PROCEEDINGS

FINANCIAL SERVICES (BANKING REFORM) BILL

[FIRST AND SECOND SITTINGS]

Greg Clark

Agreed to

That—

- (1) the Committee shall (in addition to its first meeting at 8.55 am on Tuesday 19 March) meet—
 - (a) at 2.00 pm on Tuesday 19 March;
 - (b) at 11.30 am and 2.00 pm on Thursday 21 March;
 - (c) at 9.10 am and 2.00 pm on Tuesday 26 March;
 - (d) at 9.10 am and 2.00 pm on Tuesday 16 April; and
 - (e) at 11.30 am and 2.00 pm on Thursday 18 April;
 - (2) the proceedings shall be taken in the following order: Clauses 1 to 7; the Schedule; Clauses 8 to 20; new Clauses; new Schedules; remaining proceedings on the Bill;
 - (3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 18 April.
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Greg Clark

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.

Agreed to

Chris Leslie
Cathy Jamieson

Withdrawn 11

Clause 1, page 1, line 11, after ‘that’, insert ‘reduces the risk of ring-fenced bodies assuming disproportionate exposure, enhances their capacity to cope with other exposure and otherwise’.

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Chris Leslie
Cathy Jamieson

Withdrawn 12

Clause 1, page 1, line 18, after ‘services,’ insert ‘in particular by securing the orderly handling of circumstances in which ring-fenced bodies have encountered or may encounter financial difficulties.’

Clause agreed to.

Chris Leslie
Cathy Jamieson

Not called 13

Clause 2, page 2, line 42, after ‘that’, insert ‘reduces the risk of ring-fenced bodies assuming disproportionate exposure, enhances their capacity to cope with other exposure and otherwise’.

Chris Leslie
Cathy Jamieson

Not called 14

Clause 2, page 3, line 6, after ‘services,’ insert ‘in particular by securing the orderly handling of circumstances in which ring-fenced bodies have encountered or may encounter financial difficulties.’

Clause agreed to.

Clause 3 agreed to.

Chris Leslie
Cathy Jamieson

Withdrawn 15

Clause 4, page 3, line 33, leave out from ‘order’ to end of line 35 and insert—

- ‘(a) would significantly enhance the stability of the UK financial system or provide other significant benefit to the economy of the United Kingdom, and
- (b) would not pose a risk to the continuity of the provision in the United Kingdom of core services.’.

Chris Leslie
Cathy Jamieson

Withdrawn 26

Clause 4, page 3, line 35, at end insert—

- ‘(3A) In making an order under subsection (2)(b) which—
 - (a) provides an exemption for UK institutions holding deposits below a specified amount, or
 - (b) varies the amount previously specified for the purposes of such an exemption,
 the Treasury must aim to enhance competition among UK institutions which have a Part 4A permission relating to one or more core activities (in particular by

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having regard to the likely effect on the number of UK institutions applying for or obtaining such a permission for the first time).’.

Chris Leslie
Cathy Jamieson

Not called 16

Clause 4, page 5, line 13, leave out from ‘circumstances’ to end of line 15 and insert—

- ‘(a) would significantly enhance the stability of the UK financial system or provide other significant benefit to the economy of the United Kingdom, and
- (b) would not pose a risk to the continuity of the provision in the United Kingdom of core services.’.

Chris Leslie
Cathy Jamieson

Withdrawn 6

Clause 4, page 5, line 35, at end add—

- ‘(8) Within six months of this Act receiving Royal Assent the Treasury shall carry out a review of the regulated activities of dealing in investments as principal, the purposes of which review shall include consideration of—
 - (a) safeguards that may be required to prevent the mis-selling of investments as principal as part of the core services of each ring-fenced body;
 - (b) a definition of “simple derivatives”, will reference to their size, maturity and basis, the dealing of which will be permitted under section 142C;
 - (c) the establishment of a maximum ratio, relevant to the size of the balance sheet of a ring-fenced body which provides core services, for the value of investments as principal held as financial assets or liabilities on its balance sheet;
 - (d) the establishment of a maximum gross volume on the balance sheet of a ring-fenced body which provides core services, for the value of investments as principal held as financial assets or liabilities on its balance sheet; and
 - (e) the information that may be required for an independent valuation of a financial institutions’s assets or liabilities in respect of relevant investments as principal.
- (9) The Chancellor of the Exchequer will—
 - (a) lay before Parliament a report of the review in subsection (8); and
 - (b) provide, by Order subject to an affirmative resolution of both Houses of Parliament, such safeguards as may be set out in the review in subsection (8).’.

Chris Leslie
Cathy Jamieson

Withdrawn 3

Clause 4, page 6, line 24, at end insert—

- ‘(1B) If the order confers powers on a regulator or authorises or requires the making of rules or other instruments by a regulator, then those powers, rules or instruments are to be subject to annulment in pursuance of a resolution of either House of Parliament.’.

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Chris Leslie
Cathy Jamieson

Negated on division 4

- Clause 4, page 6, line 38, at end insert—
(c) has attempted to carry out an excluded activity or to contravene any provision of an order under section 142E.’.

Chris Leslie
Cathy Jamieson

Negated on division 28

- Clause 4, page 7, line 45, at end insert—
() provision requiring that shares or voting power in a ring-fenced body are held only by another member of the ring-fenced body’s group which is not carrying on an excluded activity or by other members of that group none of which is carrying on such an activity;’.

Chris Leslie
Cathy Jamieson

Withdrawn 17

- Clause 4, page 8, line 34, at end insert—
(7A) The Treasury must make regulations prescribing requirements with which ring-fencing rules made for the group ring-fencing purposes must comply.’

Chris Leslie
Cathy Jamieson

Negated on division 24

- Clause 4, page 9, leave out lines 8 to 21 and insert—

Reviews

142J Reviews of ring-fencing

- (1) The Treasury must make arrangements for the carrying out of reviews of the effects of the operation of the provision made by or under this Part in relation to ring-fenced bodies, including ring-fencing rules made by the PRA and the FCA. Such arrangements shall be set out in a statutory instrument subject to approval by resolution of both Houses of Parliament.
- (2) The first review must be completed before the end of the period of two years beginning with the date on which section 4 of the Financial Services (Banking Reform) Act 2013, so far as it inserts this section, comes into force.
- (3) Subsequent reviews must be completed before the end of the period of two years beginning with the date on which the previous review was completed.
- (4) Not less than nine months, nor more than 12 months, before the date on which a review is due to be completed, the PRA and the FCA must publish a joint assessment of the impact of the operation of their ring-fence rules.
- (5) For the purposes of this section a review is completed when the report of it is published.

142JA Persons by whom reviews are to be conducted

- (1) The Treasury shall appoint not fewer than five persons to conduct a review of whom one is to chair it.
- (2) A person may not be appointed to chair a review unless the chairman of the Treasury Committee of the House of Commons has notified the Treasury that, in

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the chairman's opinion, the person is likely to act independently of the Treasury, the PRA and the FCA in carrying out the review.

- (3) The persons appointed to conduct a review must include at least one person with substantial experience in central banking or financial regulation at a senior level.
- (4) The reference in subsection (2) to the Treasury Committee of the House of Commons—
 - (a) if the name of that Committee is changed, is to be treated as a reference to that Committee by its new name, and
 - (b) if the functions of that Committee (or substantially corresponding functions) become functions of a different Committee of the House of Commons, is to be treated as a reference to the Committee by which the functions are exercisable;

and any question arising under paragraph (a) or (b) is to be determined by the Speaker of the House of Commons.

142JB Reports of review

- (1) The persons appointed to conduct a review must give the Treasury a report of the review.
- (2) The report must include an assessment of the extent to which the provision made by or under this Part in relation to ring-fenced bodies, including ring-fencing rules made by the PRA and by the FCA, are facilitating the advancement by the PRA of the objective in section 2B(3)(c) and by the FCA of the continuity objective.
- (3) If the report is made before section 4 of the Financial Services (Banking Reform) Act 2013, so far as it inserts section 142JD, has come into force it must also include a recommendation as to whether or not section 4 of that Act should be brought into force to that extent.
- (4) The report must include—
 - (a) recommendations to the Treasury as to the provision that should be included in orders and regulations under this Part, and
 - (b) recommendations to the PRA and the FCA about the provision that should be included in ring-fencing rules.
- (5) The Treasury must lay a copy of the report before Parliament and publish it in such manner as it thinks fit.⁷

Chris Leslie
Cathy Jamieson

Question proposed 20

Clause 4, page 9, line 21, at end insert—

'Power to order full separation

142JC Power to order separation in case of particular groups

- (1) Where—
 - (a) the members of a group include one or more ring-fenced bodies and one or more other bodies, and
 - (b) it appears to the appropriate regulator that the conduct of any one or more of the members of the group is such that there is a significant risk that the appropriate regulator will not be able to advance the objective in section 2B(3)(c) (in the case of the PRA) or the continuity objective (in the case of the FCA) otherwise than by acting under this section,
 the appropriate regulator may give a notice to each of the members of the group.

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- (2) The notice must state that the appropriate regulator proposes to require the taking of relevant steps in relation to the group before the date specified in the notice.
- (3) In this section “relevant steps” means steps to secure one of the following results—
 - (a) that there is no member of the group with a Part 4A permission to carry on a regulated activity of a description specified in the notice;
 - (b) that no member of the group is a ring-fenced body;
 - (c) that there is no member of the group with a Part 4A permission to carry on a regulated activity which is not a ring-fenced body.
- (4) The notice must—
 - (a) specify a period, of not less than 3 months, during which any member of the group may make representations to the appropriate regulator in relation to its proposal, and
 - (b) name an independent reviewer who is to report on the conduct of the members of the group and the appropriateness of the proposal made by the appropriate regulator.
- (5) A person may not be named as the independent reviewer without the consent of the chairman of the Treasury Committee of the House of Commons; and the reference in this subsection to the Treasury Committee of the House of Commons—
 - (a) if the name of that Committee is changed, is to be treated as a reference to that Committee by its new name, and
 - (b) if the functions of that Committee (or substantially corresponding functions) become functions of a different Committee of the House of Commons, is to be treated as a reference to the Committee by which the functions are exercisable;

and any question arising under this paragraph (a) or (b) is to be determined by the Speaker of the House of Commons.
- (6) After receiving any representations made in relation to the proposal by members of the group and the report of the independent reviewer, the appropriate regulator must decide whether it intends to implement the proposal.
- (7) If the appropriate regulator decides that it does intend to implement the proposal, it must publish notice of the proposal, and of its decision to implement it, at least 60 days before it is implemented.
- (8) A person who is aggrieved by the decision of the appropriate regulator that it intends to implement the proposal may refer the matter to the Tribunal.
- (9) The proposal may not be implemented without the consent of the Treasury; and the Treasury must publish their decision on any application made by the appropriate regulator for consent, together with their reasons for the decision, at least 60 days before it is implemented.
- (10) Once the Treasury has consented to the implementation of the proposal and either—
 - (a) any reference to the Tribunal under subsection (8) has been dismissed, or
 - (b) the period for making such a reference to the Tribunal has expired without a reference having been made,

the appropriate regulator may implement the proposal by giving notice to the members of the group requiring the taking of the relevant steps specified in the proposal before the date so specified.
- (11) If the relevant steps have not been taken by the specified date, the appropriate regulator may—
 - (a) in a case where the relevant steps are aimed at securing the result in paragraph (a) of subsection (3), take the action specified in subsection (12),

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- (b) in a case where the relevant steps are aimed at securing the result in paragraph (b) of subsection (3), take the action specified in subsection (13), or
 - (c) in a case where the relevant steps are aimed at securing the result in paragraph (c) of subsection (3), take the action specified in subsection (14).
- (12) The action referred to in paragraph (a) of subsection (11) is—
 - (a) to cancel the Part 4A permission of any member of the group to carry on the regulated activity specified in the notice, and
 - (b) to refuse to give a Part 4A permission to any member of the group to carry on that activity.
- (13) The action referred to in paragraph (b) of subsection (11) is—
 - (a) to cancel the Part 4A permission of any member of the group that is a ring-fenced body to the extent that it relates to a core activity, and
 - (b) to refuse to give any member of the group a Part 4A permission to carry on a core activity.
- (14) The action referred to in paragraph (c) of subsection (11) is—
 - (a) to cancel the Part 4A permission of any member of the group that is not a ring-fenced body, and
 - (b) to refuse to give a Part 4A permission to any member of the group that is not a ring-fenced body.’

[Adjourned until Thursday at 11.30 am