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Bank of England and Financial Services Bill: Commons' committee stages

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Summary

The Bill was introduced in the House of Lords. There, the abolition of the Oversight Committee, the extent to which the NAO would be allowed to scrutinise the Bank and the abolition of the reverse burden of proof in the Senior Managers and Certification regime received particular attention.

More detail on the Bill's provisions can be found in the Library Paper The Bank of England and Financial Services Bill. More detail on the Bill's stages in the House of Lords is in a separate Library note, The Bank of England and Financial Services Bill [HL] (Lords stages).

This Paper looks at the proceedings in the Commons Committee sittings.

Most of the time in Committee was spent looking at the Senior Managers and Certification Regime, in particular the issue of the 'reverse burden of proof'.

Several new clauses were introduced and approved. One promoted the ideal of diversity within the financial services industry. One regularised the issuance of 'remit letters' between the regulators and the Treasury. Other new clauses covered anti-illegal money lending funding support and limits on early exit pension charges.

1. The Bill

The UK's system of financial regulation has been thoroughly reformed following the financial crisis of 2008, with the Bank of England ("the Bank") being given a central role. The Financial Services Act 2012 gave the Bank wide responsibilities for financial supervision through a new body – the Prudential Regulation Authority. These increased responsibilities mean that the arrangements for the governance, accountability and transparency of the Bank have become more important. The Bill aims to make improvements in these areas. The Bill also makes some changes to the procedures of the Bank's Monetary Policy Committee (MPC). It covers:

- internal governance and oversight of the Bank
- extension of the senior managers regulatory regime
- pensions guidance and advice
- measures in respect of bank note issuance by banks in Scotland and Northern Ireland

Some of the main measures in the Bill are:

- making the Deputy Governor for markets and banking (currently Dame Minouche Shafik) a member of the Bank's court of directors ("the court")
- giving the government the power to make further changes to the membership of the court by secondary legislation
- abolishing the Oversight Committee and transferring its oversight functions to the full court
- making changes to the MPC's procedures including faster publication of its minutes and reducing the number of MPC meetings from 12 to eight a year
- allowing the National Audit Office (NAO) to undertake value for money studies of the Bank, subject to some limitations
- the supervisory body, the Prudential Regulation Authority, becomes a committee of the Bank – the Prudential Regulation Committee.
- the Senior Managers and Certification regime, which ascribes personal responsibility for controlled functions within financial services firms, is extended to all regulated firms, rather than just deposit takers. As part of this change, however, the 'reverse burden of proof' of the previous regime is revoked.
- the remit of the guidance service Pension Wise is extended to cover people with annuities, and provision is made to require people who want to sell an annuity income stream above a certain value to take professional advice before doing so.

2. Committee Stage proceedings

2.1 Sittings 1 & 2: Governance and financial arrangements

Summary

Clause 11 was the only clause to be amended in Committee. A number of technical Government amendments were accepted. These were designed to ensure that the NAO's value for money powers were the same for the Bank, its subsidiaries and other Bank companies indemnified by the Treasury.

The Opposition put forward a number of amendments to some of the clauses on governance and financial arrangements. Only one of these, to clause 9, was pushed to a vote. The amendment was defeated.

The sections below discuss the debates on clauses 1, 3, 5, 6 and 9 to 11. Clauses 2, 4, 7 and 8 were relatively uncontroversial.

Detail

The Opposition moved an amendment to **clause 1** to require four of the nine non-executive members of the court to be representatives of specific practitioner groups or of consumer groups. The Opposition also put forward a new clause requiring publication of a transcript, rather than just a record, of meetings of the court. These amendments aimed to improve the representativeness and accountability of the Bank. In addition, the SNP brought forward a new clause to require the Chancellor to take into account the need for balanced representation from the nations and regions of the UK when making nominations to the court.

In response, Harriett Baldwin, Economic Secretary to the Treasury, said that she agreed that transparency was important but did not think that requiring publication of transcripts of court meetings would improve governance. She pointed out that minutes of court meetings were already published. The proposed amendments would increase the number of members of the court, meaning "a return to a large, inefficient, and ineffective court." Amendments requiring representation of particular sectors would risk conflicts of interest. The proposed amendments would also place "unnecessary and undesirable constraints" on court appointments, possibly preventing the best people from being appointed.[1] The amendment was withdrawn.

For the Opposition, Richard Burgon, shadow City Minister, said **clause 3**, which abolished the Oversight Committee, reduced the accountability of the Bank. The Opposition proposed an amendment to require the non-executives to bring in expertise from outside the Bank when commissioning a review of the Bank's work. The Minister said that the amendment would take away discretion over who should carry out such a review. The amendment was withdrawn.

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1 PBC Deb 9 February 2016 c13

Richard Burgon said that problems remained with **clause 5**, despite the amendments which had been made in the Lords. He said that the Bill should identify who within the Bank would be directly responsible for the production of the financial stability strategy, rather than allowing the court to delegate the powers elsewhere. Mr Burgon indicated that the Financial Policy Committee (FPC) should be made responsible for producing the strategy. For the SNP, George Kerevan said that the proposed arrangements risked creating a system of silos where the MPC and the FPC did not talk to each other, leading to a lack of policy co-ordination.

In response, the Minister said that the Government had listened to the arguments on this clause in the House of Lords and had amended the Bill. The court would decide who was in the best position to set and review the strategy. On the issue of silos, the Minister said that:

> we think it right to strike a balance to ensure that each of the committees remains focused on its individual remit while fostering interaction between monetary and macroprudential policy.[2]

The Minister explained that **clause 6** brought the FPC into line with the MPC and the new Prudential Regulation Committee by making it a policy committee of the Bank rather than a sub-committee of the court. This would simplify and clarify the governance of the Bank.

The Opposition proposed a new clause 6 to require the FPC, at least once a year, to commission and publish "external research into the level of systemic risk to the stability of the financial system in the UK." The new clause would also have required the Bank to publish a record of the FPC's meetings within six weeks.

The Minister said that the proposed new clause was unnecessary. The requirement on external research was not needed, as the FPC was already under a statutory duty to produce a financial stability report twice a year. This took account of views outside the Bank. The external members of the FPC could challenge the Bank members, helping to prevent groupthink. On the second part of the new clause, the Minister said that existing legislation already required the FPC to publish a record of its policy meetings.

For the Opposition, Richard Burgon said that the Bank's committee structure was very complicated and consideration should be given to its simplification so that it could be better understood by the public. He also said that thought should be given to how the FPC could be more active in creating policy on systemic risk. Mr Burgon said that, in the light of the Minister's comments, he would not press new clause 6. John Mann, however, said the new clause was needed. He set out a number of threats to financial stability, including a UK exit from the EU, the housing market in the UK and the level of debt in the UK economy. He said the new clause would help the FPC to ensure the robustness of the UK financial system.

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2 PBC 9 February 2016 c27

The Opposition moved an amendment to **clause 9** and pushed it to a division, but it was defeated. The Opposition said the amendment would improve transparency. The amendment was in two parts. The first stated that the Comptroller and Auditor General (C&AG) would be allowed to enquire into the Bank's success in meeting its policy objectives but would not be permitted to look at the desirability of the objectives themselves. The second part of the amendment required reports by the C&AG to be published promptly unless the Treasury Select Committee thought that such publication would adversely affect the UK banking or financial system.

In response, the Minister said that the independence of the Bank and NAO had been carefully considered and that the Bill struck the appropriate balance. She argued that the amendment was unnecessary. The first part was superfluous, as the Bill already contained this provision. The Minister said:

> The Bill as drafted will have that exact effect. The comptroller will be free to question the Bank's success in achieving its policy objectives, but not the merits of the objectives. The Bill reinforces that by setting out specific areas in which the NAO cannot question the merits of the Bank's policy decisions. That extra protection, which has been agreed to by both the Comptroller and Auditor General and the Governor, reflects the crucial importance of protecting the independence of the Bank's policy decisions.[3]

The Minister also said the second part of the amendment was unnecessary, as there were already sufficient measures to prevent the disclosure of sensitive information. On the timing of publication of reports, it was right that this should be left to the C&AG. In any case, there was an incentive to publish promptly to prevent reports from being overtaken by events. The amendment was defeated by ten votes to six.

The Opposition proposed an amendment to **clause 10** relating to reports by the Bank on activities indemnified by the Treasury. The Bill requires these reports to be sent to the Treasury. The amendment would have required the Treasury to lay such a report before Parliament within a month of receiving it from the Bank.

The Minister said that Treasury indemnities of Bank activities were rare. Reports on these matters could contain commercially confidential information and information which might risk financial stability. A statutory deadline for publication would be against the public interest. The Treasury should retain flexibility over whether and when to publish such reports. The amendment was withdrawn.

A number of technical Government amendments were made to **clause 11**. These amendments were designed to ensure that the NAO's value for money powers were the same for the Bank, its subsidiaries and other Bank companies indemnified by the Treasury. Under the original draft of the Bill, the NAO's powers to conduct value for money studies

3 PBC 9 February 2016 c39

of the companies owned by the Bank differed from those in relation to the Bank itself.

The Opposition tabled a number of amendments to this clause requiring the Memorandum of Understanding (MoU) between the C&AG and the Bank to be published and involving the Treasury Select Committee in scrutiny of it.

On the MoU, the Minister said that a draft had been sent to members of the Bill Committee and to the chairs of the Treasury Select Committee and Public Accounts Committee. She said that as soon as the final version was ready, the MoU would "be more widely disseminated – certainly in time for Report and Third Reading."[4] A draft MoU has been deposited in House of Commons Library.[5] The amendments requiring publication of the MoU were therefore unnecessary. On the amendments relating to the Treasury Select Committee, the Minister said that the Committee already had powers to examine all issues of policy and administration at the Bank of England.

2.2 Sittings 3 & 4: Prudential regulation

Clauses 12 to 17 and schedules 1 and 3 were taken together on a stand part basis.[6]

Only **clause 12** was debated. The Minister, Harriett Baldwin, outlined the benefits of the change in status of the Prudential Regulation Authority, which will now be part of the Bank rather than a subsidiary company. She said "the one-Bank agenda that the Governor has followed" had prompted the measure.[7]

For the Opposition, Richard Burgon declared the move a demotion to "a mere sub-committee". Whilst he accepted that there were possibly efficiencies in the change from a business point of view, he discussed the possible lack of independence arising from the change and the increased dependence as he saw it on the role of the Governor.[8]

The SNP spokesperson,George Kerevan, thought that there was no unique best way to organise prudential regulation. Various models had been tried and all found wanting in their way. He thought that the existing system had had little opportunity to prove itself before being changed yet again.[9]

The clause was approved after a division by 10 votes to seven.

All other measures in this group were agreed to without debate.

Clause 18: Recommendations by the Treasury to the FCA

This clause was one of several Government new clauses introduced during the Lords Report stage and so had not been discussed in the

4 PBC 9 February 2015 c46
5 Draft Memorandum of Understanding between the National Audit Office and the Bank of England, 5 February 2016, DEP2016-2013
6 PBC Deb 11 February 2016 c53
7 PBC Deb 11 February 2016 c60
8 PBC Deb 11 February 2016 c57
9 PBC Deb 11 February 2016 c59

Lords Committee stage. Although independent, the issuance of Treasury 'remit letters' as they are described, to the regulators is fairly common. Andrew Bailey, future head of the Financial Conduct Authority, in evidence to the Treasury Committee, noted:

> We are reasonably familiar with receiving remit letters in the Bank of England. It started with the MPC; there is now an FPC remit letter and, as you know, there is an exchange of letters between the Governor and the Chancellor, and it is a pretty well-established routine.[10]

This clause formalises such interactions. At the heart of the measure is a request that the FCA have regard to government economic aims.

Opposition spokesman Rob Marris spoke to amendments which would have required the Treasury to publish any such notice and make a statement to the House about it.

He criticised the 'groupthink' behind the proposals and questioned the ongoing independence of the FCA in the light of the Bill.[11] He cited the cessation of the FCA's review into bank culture as an instance of government interference – an argument rejected by the Minister.[12] She continued by outlining the process by which the remit letters would be dealt with and gave this commitment:

> I assure members of the Committee that I cannot foresee any circumstances in which the notification for either regulator would not be published and laid before Parliament within a month. I am happy to commit the Government to that practice. I am not going quite as far as accepting the hon. Gentleman's amendment, but I am happy to commit the Government on the record to that practice.[13]

The amendment was withdrawn.

Clause 19 (recognition of diversity of institutions) was a Conservative new clause agreed to by the Government at a late stage in the Lords. All sides supported it.

Senior Managers and Certification Regime: clauses 20 and 21

Reflecting earlier debate, it was the Senior Managers and Certification Regime (SMCR) which provoked most debate. Again, as before it was not the extension of the regime to all (clause 20) which was controversial. A short statement by the Minister on the history and development of the SMCR is the most useful part of this debate.[14]

Opposition amendments to **Schedule 4** provided the opportunity to talk about the issue of 'burden of proof'. The Labour spokesman, Rob Marris, summed up where the parties were on this:

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10 Treasury Select Committee Evidence Q24, 17 November 2015
11 PBC Deb 11 February 2016 c62
12 PBC Deb 11 February 2016 c64
13 PBC Deb 11 February 2016 c65
14 PBC Deb 11 February 2016 c69

> the Government are saying, "We will extend this part of the regime to everyone. SMACR will apply to everybody in financial services, but the reverse burden of proof will no longer apply to anybody, senior or junior." At the other end of the spectrum […] the Scottish National party is saying, "Extend SMACR to everybody, but retain the reverse burden of proof." Our position, given that it is harder for smaller organisations to comply with what, frankly, can be labyrinthine regulatory controls, is that the reverse burden of proof should be retained for senior managers, but not for junior managers; extend the regime to junior managers, but not the part of it that pertains to the reverse burden of proof.[15]

Both Labour and the SNP mentioned that the new regime had not been tried yet and that changing now sent the wrong signals. The level of fines post crisis showed that despite some attempts to improve, problems remained in the financial community.

The Minister agreed that a "strong signal" was needed, but outlined, first, all the other steps which had been taken post crisis to affect individual responsibility and incentives. She then discussed the argument about 'natural justice' and the difficulties which smaller institutions might have with the legislation as it stood.[16] Furthermore she said:

> It is important that the Committee understands that the reverse burden of proof is simply not necessary to embed senior manager accountability in the senior managers and certification regime. The Parliamentary Commission on Banking Standards clearly established that the approved persons regime was wholly inadequate. We believe that the senior managers and certification regime clarifies the responsibilities of individual senior managers, which is something that any effective regulatory regime must deliver. Moreover, it will deter senior managers from taking a reckless or negligent approach to managing their responsibilities in the first place. I know that the whole Committee will agree with that. The duty of responsibility is a powerful incentive that encourages senior managers to take effective action to prevent such failings.[17]

Later she said that the amendments:

> would apply the reverse burden of proof to all authorised persons, the vast majority of which are small firms. It would be simply disproportionate to apply it to senior managers in all of those firms. I have spoken about the overly legalistic approach. We think it could lead to a perverse outcome, leaving senior managers in the largest firms less exposed to legal risk under the reverse burden of proof than those in small firms.[18]

There was a division, but the Opposition amendment was defeated (10 votes to seven). Schedule 4 and clauses 21 to 24 were agreed to.

After a brief clarification of the extent of **clause 25** (meaning of insolvency) – it did not apply beyond banks – the clause was agreed to without debate.

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15 PBC Deb 11 February 2016 c72-3
16 PBC Deb 11 February 2016 c79
17 PBC Deb 11 February 2016 c81
18 PBC Deb 11 February 2016 c82

Clause 26 was agreed to without debate.

2.3 Sittings 3 & 4: reinsurance and pensions issues

The Committee discussed clauses 27 to 37 in one group. The Minister outlined their purpose sequentially here.[19] The Opposition responded in like manner with individual questions about each clause but no determination to fundamentally alter any of them.

Speaking for the SNP, George Kerevan asked about the impact of clause 28 – transformer vehicles. He pointed out that the reinsurance market, of which these vehicles are part, has moved from a capital reserve industry model to one where the risk is securitised through the selling of credit default swaps. He wondered whether this move might not have the same effect on insurance as it had on bank lending in the lead-up to the financial crisis, namely, that there was only the illusion of shared risk.[20] He asked what the role of the clause was in this respect. The Minister replied:

> Members are right to express concerns about the transparency and manageability of the risks, as well as about the importance of their being arranged by regulated entities, so it is important that I set out that insurance-linked securities business will be prudently regulated in the UK.
>
> All special purpose vehicles will require Prudential Regulation Authority authorisation. All the wording in terms of the contracts must be clear and robust, and importantly risks cannot be bundled together in the way that the hon. Member for East Lothian feared. We require all special purpose vehicles to be fully funded to cover the full extent of the risk they take on, so we are not talking about the kind of very leveraged structures that he rightly said were so instrumental in the last financial crash.[21]

Clauses 29-31 – Pension issues

Clauses 29 to 31 provide for measures related to the ‘pension freedoms’ introduced from April 2015 for people aged 55 and over with defined contribution pension savings:[22]

- **Clause 29** extends the remit of Pension Wise to cover people with annuities, in the context of plans to allow people with annuities to sell them to a third party from 2017.[23]
- **Clause 30** provides for a requirement to take advice for individuals with an annuity of a specified type or value.
- **Clause 31** allows ‘appointed representatives’ to advise on the conversion and transfer of safeguarded benefits.

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[19] PBC Deb 11 February 2016 c94
[20] PBC Deb 11 February 2016 c105
[21] PBC Deb 11 February 2016 c106
[22] For more detail, see Library Briefing Paper SN-06891 Pension Flexibilities (March 2016)
[23] HM Treasury and DWP, Creating a secondary annuity market: response to the call for evidence, December 2015

For the Opposition, Rob Marris asked whether (prospective) beneficiaries of annuitants would be able to access Pension Wise and whether the service would be able to advise annuitants on the other vehicle into which they were proposing to place the proceeds of the sale.[24] Harriett Baldwin responded that the exact characteristics of who would be entitled to use the service would be set out in regulation in due course.[25]

Unconnected to the measures in the Bill, Mr Marris raised concerns about consumer protection in relation to 'master trusts', a type of pension scheme which some employers are using to auto-enrol their employees.[26] Ms Baldwin responded that the Government intended to bring forward legislation to address the issues as soon as practically possible.[27] For more detail, see section 3.3 of Library Briefing Paper SN-06417 Pensions: Automatic enrolment – 2010 onwards (March 2016).

The clauses were ordered to stand part of the Bill.[28]

Clause 38 was agreed to formally.

2.4 New Clauses

New clause 1: illegal money lending

Lending money is a regulated activity. It will usually involve a consumer credit authorisation. Money lending as a business without authorisation is referred to as 'illegal money lending'. Those who do it are often called 'loan sharks'.

Anti-illegal money lending activity has been government policy spanning several administrations. Most of the work is carried out by specialist illegal money lending units. These are organised on a national basis under the aegis of trading standards. The English unit operates out of Birmingham Council. A PQ in January 2016 asked about the future funding of the teams:

> 14. **Nick Smith (Blaenau Gwent) (Lab):** What his plans are for future funding of illegal money lending teams. [903113]
>
> **The Economic Secretary to the Treasury (Harriett Baldwin):** The Government are exploring options to ensure that the England and Wales illegal money lending teams have the funding they need to ensure that consumers continue to be protected from illegal loan sharks, and are confident of transitional arrangements being agreed.
>
> **Nick Smith:** Too many of my constituents are victims of loan sharks. The illegal money lending team has helped nearly 24,000 victims across the country, yet the Government have treated the service with disdain. Will the cuts to this vital team and to local employment standards not make the poorest more vulnerable?

[24] PBC Deb 23 February 2016 c101
[25] Ibid c107
[26] Ibid c102
[27] Ibid c110
[28] Ibid c110

> **Harriett Baldwin:** Far from agreeing with the hon. Gentleman, I must say that the Government are finding ways to put the team on a sustainable basis to continue the valuable work it does to protect people from illegal money lending.[29]

The start of this new clause, which amends the Financial Services and Markets Act 2000, is shown below:

> (1) The Treasury may make grants or loans, or give any other form of financial assistance, to any person for the purpose of taking action against illegal money lending.
>
> (2) Taking action against illegal money lending includes—
>
> (a) investigating illegal money lending and offences connected with illegal money lending;
>
> (b) prosecuting, or taking other enforcement action in respect of, illegal money lending and offences connected with illegal money lending;
>
> (c) providing education, information and advice about illegal money lending, and providing support to victims of illegal money lending;
>
> (d) undertaking or commissioning research into the effectiveness of activities of the kind described in paragraphs (a) to (c);
>
> (e) providing advice, assistance and support (including financial support) to, and oversight of, persons engaged in activities of the kind described in paragraphs (a) to (c).
>
> (3) A grant, loan or other form of financial assistance under subsection (1) may be made or given on such terms as the Treasury consider appropriate.
>
> (4) 'Illegal money lending' means carrying on a regulated activity within Article 60B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (regulated credit agreements) in circumstances which constitute an authorisation offence.

The Minister said:

> The new clause gives the Treasury a power to provide financial assistance to bodies for the purpose of taking action against illegal money lending. It also gives the Financial Conduct Authority an obligation to raise a levy, which will apply to consumer credit firms, in order to fund that assistance.
>
> Illegal moneylenders prey on some of the most vulnerable people in society. The new clause will ensure that the perimeter of the consumer credit market continues to be enforced effectively, and that vulnerable consumers remain protected from loan sharks.[30]

Before this measure, funding for illegal money lending units had been on a 'project' or one-off single initiative basis, or as part of broad BIS spending. This would change with this measure. All regulated activity is paid for by regulated firms through levies to the regulators. For the first time they would pay for the unregulated sector too.

29 HC Deb 19 January 2016 c1265
30 PBC Deb 23 February 2016 c114

The object of the clause was broadly welcomed. However, for the Opposition, Rob Marris thought that the expenditure should come from taxation, not a levy:

> Our reservation is that the funding for the anti-illegal money lending teams will come from a levy. We welcome the stability of funding that they will enjoy under new clause 1. However, the funding should come from general taxation. The levy, presumably to raise £4.7 million out of the £200 billion turnover to which the Minister referred, will effectively fall, refracted through the lenders, on individuals. It is another example of the good guys—people who get money from non-loan sharks—subsidising the bad guys, the illegal money lending operators. It would be more progressive to have stable funding, which I hope all Members would like the anti-illegal money lending teams to have, from general taxation, not indirectly from a levy on consumers in the market.[31]

The Minister explained the change in preference of funding patterns:

> The funding for the teams that tackle illegal money lending has previously come, because it is a trading enforcement matter, through BIS, so they were paid for out of general taxation through the BIS budget. We took the view, as we went through the different alternatives in terms of the comprehensive spending review for the autumn statement, that that meant the funding for a very important activity was constantly being questioned. One year it was funded from the Treasury reserve as well. So the levy is a way of putting the funding for this important activity on a sustainable footing in a way that will be spread judiciously across the wide range of different consumer credit firms.[32]

The new clause was agreed to.

New clause 3: Confirmation of PRA Chief Executive

The SNP introduced a new clause to require the nominated (by the Chancellor) Chief Executive of the Prudential Regulation Authority (PRA) to be approved by way of a confirmation hearing of the Treasury Committee.[33] It was supported by Labour, which prayed in aid the Chair of the Treasury Committee, who wanted all regulatory appointments of this sort subject to confirmation hearings.[34]

Responding (in the negative), the Minister pointed out that the UK's model of independent regulation provides a "statutory framework of objectives and duties and ensures that regulatory decisions are taken in an objective and impartial way" rather more than a solitary hearing would.[35] She also argued that a confirmation hearing would expose potential candidates to possibly unwelcome publicity (with their current employers) and would confuse the lines of authority in terms of who was ultimately responsible for the appointment (at present the

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[31] PBC Deb 23 February 2016 c116-17
[32] PBC Deb 23 February 2016 c117
[33] PBC Deb 23 February 2016 c124
[34] PBC Deb 23 February 2016 c127
[35] PBC Deb 23 February 2016 c128

government). She noted, however, that the Government was in favour of pre-commencement hearings for candidates.

The amendment was rejected on division by 10 votes to six.

New clause 4: Change in title of Bank of England

The SNP introduced a new clause to rename the Bank of England to reflect all the constituent parts of the UK. George Kerevan said that, currently, there is a "minor irritation in the other parts of the kingdom at the use of the name England" and, more seriously, "to play that global role and represent a modern Britain, it needs a name that reflects a modern Britain … The intent of the Bill for the Government and the officers of the Bank of England is to modernise. What better opportunity to have a modern name?"[36] The measure was supported by Labour.

The Minister pointed out that the Bank of England "has a worldwide reputation as a strong and independent central bank", the identity of which "is not something we should dismiss lightly".[37] She pointed out that its mission statement is "'to promote the good of the people of the United Kingdom by maintaining monetary and financial stability'". The amendment was rejected on division by ten votes to five.

New clause 7: FCA rule – early exit pension charges

At Public Bill Committee stage, the Government introduced a new clause to place a duty on the Financial Conduct Authority to limit early exit charges.

The background to this was that the Government introduced new rules giving people aged 55 and over more flexibility about when and how to access their defined contribution pension savings from April 2015.[38] In July 2015, it launched a consultation on whether people were able to access their savings easily and at a reasonable cost.[39] In February 2016, the Government announced that it would:

> act to limit early exit charges for people seeking to access the pension freedoms, by introducing legislation to place a new duty on the FCA to cap early exit charges; and by mirroring these requirements for trust-based schemes.[40]

Presenting new clause 7, Harriett Baldwin, explained:

> To ensure that the cap benefits current consumers who are eligible to use the freedoms now, the Government will ensure that any cap applies equally to existing arrangements and to those entered into in the future. The Government have not taken the decision to pursue legislation with retrospective effect lightly, and we recognise industry concerns about interference with existing contractual agreements. We have already made it clear that market value reductions should not be subject to the cap on early exit charges. However, in the Government's view it is unfair that a

36 PBC Deb 23 February 2016 c133
37 PBC Deb 23 February 2016 c135
38 *Taxation of Pensions Act 2014*
39 HM Treasury, Pension transfers and early exit charges: consultation, July 2015 updated February 2016
40 HM Treasury, Pension transfers and early exit charges: response to the consultation, February 2016

> significant minority of individuals have been deterred from accessing their pensions flexibly because of contractual terms they entered into long before the freedoms were introduced. Indeed, some providers have conceded that industry practices have moved on, and that the introduction of the pension freedoms means that the charges pose a much more significant barrier now than when they were first agreed. Fairness is not determined solely by reference to whether it was acceptable to include a term in a pension contract many decades ago; it should also be assessed in light of the reforms and changes in market practice over time.
>
> In the context of the new pension freedoms, it is unfair that some individuals are being deterred from accessing their pensions flexibly because of terms in contracts from before the pension freedoms were introduced. Those people would not have been in a position to make an informed decision about potential early exit charges when they signed up, and that is why we have introduced the clause, to limit the charges and remove the deterrent.
>
> In giving the FCA, as the relevant regulator, the flexibility to determine the precise level of the cap, we are ensuring that fairness is built into the setting of any cap. The FCA is best placed to determine how best to apply any cap, to ensure that early exit charges are not a deterrent to individuals using the freedoms. The new clause will provide consumers in contract-based pension schemes with genuine protection when exercising the pension freedoms, by ensuring that they are not deterred by early exit charges. Alongside that measure, which will apply to FCA-regulated pension schemes, the Department for Work and Pensions and the Pensions Regulator will work to ensure that any relevant concerns are appropriately addressed for trust-based schemes. We will ensure that all pension scheme members are protected against excessive early exit fees, regardless of the type of pension scheme they are in. I commend the new clause to the Committee.[41]

For more on the background, see Library Briefing Paper SN-06891 Pension Flexibilities (March 2016).

New clause 8: Board of Directors of Bank of England

The Opposition introduced a new clause to rename the Bank of England 'court of Directors' as 'Board of Directors'. It explained that the name change was part of the modernisation of the Bank which the Bill addressed and, according to evidence to the Treasury Select Committee, the Bank itself had mixed views:

> In considering the cases for and against the renaming of the court of the Bank of England, the court stated:
>
> "On the one hand, renaming would recognise the considerable changes in Court's actual and prospective responsibilities in the past decade. On the other hand, it could give rise to serious misunderstandings, since amongst central banks 'Board' is often used to refer to an executive and/or policy making committee, as

[41] PBC Deb 23 February 2016 c119-20

> exemplified by the Federal Reserve Board and the Executive Board of the European Central Bank".[42]

The Minister said:

> Changing the name of the court would make absolutely no difference to how it operates in practice. It is the provisions in the Bill that will do that. I oppose the suggestion to change the name from the rather quaint and old-fashioned term of "court", which has for me some charm.[43]

The amendment was rejected on division by ten votes to six.

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42 PBC Deb 23 February 2016 c138
43 PBC Deb 23 February 2016 c139

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