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GENERAL COMMITTEES

Public Bill Committee

FINANCIAL SERVICES BILL

Eleventh Sitting

Thursday 3 December 2020

(Morning)

CONTENTS

New clauses considered.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 7 December 2020

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The Committee consisted of the following Members:

Chairs: †Philip Davies, Dr Rupa Huq

† Baldwin, Harriett *(West Worcestershire)* (Con)
† Clarkson, Chris *(Heywood and Middleton)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Davies, Gareth *(Grantham and Stamford)* (Con)
Eagle, Ms Angela *(Wallasey)* (Lab)
† Flynn, Stephen *(Aberdeen South)* (SNP)
† Glen, John *(Economic Secretary to the Treasury)*
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† McFadden, Mr Pat *(Wolverhampton South East)* (Lab)
† Marson, Julie *(Hertford and Stortford)* (Con)
† Millar, Robin *(Aberconwy)* (Con)
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Richardson, Angela *(Guildford)* (Con)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Williams, Craig *(Montgomeryshire)* (Con)

Kevin Maddison; Nicholas Taylor, *Committee Clerk*

† attended the Committee

Public Bill Committee

Thursday 3 December 2020

(Morning)

[Philip Davies *in the Chair*]

Financial Services Bill

11.30 am

The Chair: Before we begin, I have a few reminders. Please switch electronic devices to silent, tea and coffee are not allowed in sittings, and I thank everybody for your respect of social distancing. The *Hansard* reporters will be grateful if Members could email any electronic copies of their speaking notes to hansardnotes@parliament.uk. If Members wish to press any of the new clauses that have already been debated to a Division, some prior indication would be helpful, although not compulsory.

Today, we continue line-by-line consideration of the Bill. New clause 1 has already been debated. Does Pat McFadden wish to press it to a Division?

Mr Pat McFadden (Wolverhampton South East) (Lab): No.

New Clause 2

European Union regulatory equivalence for UK-based financial services businesses

‘(1) The Treasury must prepare and publish a report on progress towards regulatory equivalence recognition for UK-based financial services firms operating within the European Union.

(2) This report should include—

(a) the status of negotiations towards the recognition of regulatory equivalence for UK financial services firms operating within the European Union;

(b) a statement on areas in where equivalence recognition has been granted to UK based businesses on the same basis as which the UK has granted equivalence recognition to EU based businesses; and

(c) a statement on where such equivalence recognition has not been granted.”—*(Mr McFadden.)*

This new clause would require a report to be published on progress towards, or completion of, the equivalence recognition for UK firms which the Government hopes to see following the Chancellor’s statement on EU-based firms operating in the UK.

Brought up, and read the First time.

Mr McFadden: 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 28—*Pre-commencement impact assessment of leaving the EU Customs Union*—

‘(1) No Minister of the Crown or public authority may appoint a day for the commencement of any provision of this Act until a Minister of the Crown has laid before the House of Commons an impact assessment of—

(a) disapplying EU rules;

(b) applying rules different from those of the EU as a consequence of any provision of this Act.

(2) A review under this section must consider the effects of the changes on—

(a) business investment,

(b) employment,

(c) productivity,

(d) inflation,

(e) financial stability, and

(f) financial liquidity.

(3) A review under this section must consider the effects in the current and each of the subsequent ten financial years.

(4) The review must also estimate the effects on the changes in the event of each of the following—

(a) the UK leaves the EU withdrawal transition period without a negotiated comprehensive free trade agreement,

(b) the UK leaves the EU withdrawal transition period with a negotiated agreement, and remains in the single market and customs union, or

(c) the UK leaves the EU withdrawal transition period with a negotiated comprehensive free trade agreement, and does not remain in the single market and customs union.

(5) The review must also estimate the effects on the changes if the UK signs a free trade agreement with the United States.

(6) In this section—

“parts of the United Kingdom” means—

(a) England,

(b) Scotland,

(c) Wales, and

(d) Northern Ireland; and

“regions of England” has the same meaning as that used by the Office for National Statistics.”

This new clause would require the Government to produce an impact assessment before disapplying EU rules or applying those different to those of the EU; and comparing such with various scenarios of UK-EU relations.

New clause 36—*Regulatory divergence from the EU in financial services: annual review*—

‘(1) The Treasury must prepare, publish and lay before Parliament an annual review of the impact of regulatory divergence in financial services from the European Union.

(2) Each annual review must consider the estimated impact of regulatory divergence in financial services in the current financial year, and for the ten subsequent financial years, on the following matters—

(a) business investment,

(b) employment,

(c) productivity,

(d) inflation,

(e) financial stability, and

(f) financial liquidity,

in each English region, and in Scotland, Wales and Northern Ireland.

(3) Each report must compare the analysis in subsection (2) to an estimate based on the following hypothetical scenarios—

(a) that the UK leaves the EU withdrawal transition period without a negotiated comprehensive free trade agreement;

(b) that the UK leaves the EU withdrawal transition period with a negotiated agreement, and remains in the single market and customs union;

(c) that the UK leaves the EU withdrawal transition period with a negotiated comprehensive free trade agreement, and does not remain in the single market and customs union; and

(d) that the UK signs a comprehensive free trade agreement with the United States.

(4) The first annual report shall be published no later than 1 July 2021.”

This new clause requires a review of the impact of regulatory divergence from the European Union in financial services, which should make a comparison with various hypothetical trade deal scenarios.

Mr McFadden: Thank you for your chairmanship, Mr Davies. I rise to speak to new clause 2, in my name and the names of my hon. Friends. We discussed equivalence when we were debating clause 24 or 25, so it might relieve the Minister and the Committee to know that I will not repeat everything I said about how we got to this position, but let us look at what the current situation is.

First, we have withdrawn from the EU, and in so doing we have withdrawn from any joint decision-making process about mutual access to financial services. Secondly, a few weeks ago the Chancellor announced a unilateral move on the UK's part to grant equivalence recognition to EU member states and their firms. Thirdly, there is a legislative mechanism to do that in the Bill. Fourthly, we now await decisions on equivalence from the EU. Finally, in terms of the regulatory picture, we have spent a lot of legislative time in this House—probably no one more than the Minister in the past two years or so—legislating to onshore various EU directives. That is where we are.

The aim of onshoring that vast body of legislation was to have a parallel position, or as near to one as we could reach, on day one of the end of the transition period. At the same time, though, we have given our regulators powers to diverge in various ways from the terms of these directives in future. We have discussed that quite a few times in Committee, and the Minister said that the Government are not interested in diverging for the sake of divergence, but of course there are many in the Government, and in his party, for whom divergence is the whole point of the exercise, because it is all about sovereignty. Although we may be almost totally in line on day one—new year's day—what about day 100 or day 1,000?

Nothing in new clause 2 alters the power to diverge. If the package of onshoring and granting new powers to the regulators that the Minister is taking through is there, nothing in the new clause alters that, but it asks for a report on where we have reached in that process. We know that a positive outcome of this process could have a very significant bearing on the UK financial services industry. It would mean better access for our firms than without that process. It certainly would not give them what they have at the moment, but that is water under the bridge—we debated that earlier in Committee.

The converse is also true, of course: if we do not get equivalence recognition, it would have implications for jobs, tax revenue and how the UK is viewed as a home for inward investment in the financial services industries. All that the new clause does is to ask for a report on where we have got to in the process or, alternatively, a statement on who has refused to grant equivalence of recognition.

I hope the Economic Secretary does not mind if I point out that I cannot be the only one who is struck by the clamour, particularly on the Government Benches, for economic evidence to justify covid-protective measures. Everybody wants the exact detail of how that will affect their local economies. If that is the case, it is only right that the Government report on the economic consequences of the other major process that we are going through. That is the intention behind the new clause.

The sector is hugely important for the United Kingdom, as has been mentioned many times during our debates over the last couple of weeks. All that the new clause does is to ask for a report on where we are on market access. I very much hope that we have a positive outcome on that. Some of it may be about good will, and it might depend on what is agreed in the next week or two—we do not know. It is certainly in the interests of the sector to have a positive outcome. The least we can ask is that the Government report to the House on that.

Finally, if the outcome is positive, the Government will probably want to report back anyway. If the outcome is not positive, Parliament has a right to hear about that, too.

Stephen Flynn (Aberdeen South) (SNP): Just to be clear, Mr Davies, do you wish me to speak to new clause 2 or to new clauses 28 and 36?

The Chair: You can speak to new clause 2 as well as to your new clauses 28 and 36.

Stephen Flynn: Then I will do that—thank you. It is a pleasure to see you in the Chair once again, Mr Davies. It is probably accurate and correct that the new clauses are grouped together, because they are quite similar in scope, particularly when considering the wider issue of divergence. I will come back to that.

New clause 28 seeks to provide an impact assessment before disapplying European Union rules or applying rules different from those of the EU. That is incredibly important, because it goes to the core of what the Bill is about in relation to our leaving the European Union. Only a few day ago, the Governor of the Bank of England highlighted that a no-deal Brexit could of course lead to a worse economic situation than covid. We need to be in a position to assess the reality of what the Government seek to do. That should apply in the case of no-deal, a good deal—as far as the Government see it—a bad deal or a "Boris deal".

We should compare what we could have had with what we get. We should be open and transparent with the public about that. The Government talk about wanting to take back control and parliamentary sovereignty; let us take that back to the people as well and show them that the Government are being open and transparent with everything that is put forward. That is particularly important in a Scottish context because—lest we forget—the people of Scotland did not vote for Brexit, and they do not want it to happen, so it is incumbent on the UK Government to provide that clarity to them, particularly on such important matters.

If the Government are proud of the actions that they are taking and seek to go down a different path, they should be willing to follow up on their actions and be open and transparent, not shy away from that.

That takes me on to new clause 36, which would do something very similar to new clause 28, but rather than looking at the potential impact of future decisions, it would provide for an annual review of the decisions that had been taken. That, as the right hon. Member for Wolverhampton South East said, is, in the context of equivalence, incredibly important, particularly if we are to see the UK diverge from the European Union in any way, shape or form. As we have heard, the Chancellor has guaranteed equivalence to the European Union, so it will have access to the UK markets, but of course there is not a similar agreement in place for us. Conservative Members would, understandably, argue that that is the

[Stephen Flynn]

EU's fault and that the EU should be delivering that for us, but, as I said on Second Reading, who can blame it when this is a Government who simply cannot be trusted, a Government—lest we forget—who are willing to break international law?

Irrespective of that, we should all be concerned about the reality of not having equivalence in place and what that could lead to. We have made and heard suggestions that it could mean, ultimately, divergence in relation to MiFID—the markets in financial instruments directive. It could mean divergence in relation to the wider insurance regulatory framework. I appreciate that there are arguments both in favour and against in that regard, but we need always to be mindful of what we are seeking to diverge from in relation to our wider relationship with the European Union. I appreciate that it will ultimately be in the gift of the Government to do these things, but they should surely have some concerns about the actions that they will be taking.

I go back to the comments that I made about new clause 28. If the Government are proud of the actions that they take and have taken, they will be willing to accept both new clause 28 and new clause 36 and to put their money where their mouth is and be open and transparent with the people of Scotland and the people of the United Kingdom that their decisions have not been ones that have had disastrous consequences for the economy of the UK. I suggest that if they do not accept the new clauses, that is because they know the damage that they are going to do.

The Economic Secretary to the Treasury (John Glen): What a pleasure it is to serve under your chairmanship once again, Mr Davies. These new clauses seek to place requirements on the Government to make various reports related to the UK's withdrawal from the EU and the subsequent evolution of our financial services regulation.

New clause 2 deals with equivalence, which is an important mechanism for managing cross-border financial services activity. I can well understand hon. Members' interest in that. However, the obligation that the new clause would impose on the Government—essentially, to report on the status of the EU's considerations about UK equivalence—is beyond the Government's power and therefore not something that the Government can agree to do.

The right hon. Member for Wolverhampton South East rightly referred to my right hon. Friend the Chancellor's speech on 9 November, in which he made clear that we have made equivalence decisions—17 of the 30 that we have to make. We have co-operated very fully with the EU in terms of a timely response to the 17 questionnaires. Again, we cannot determine how it responds. Equivalence assessments are an autonomous process, managed separately from trade negotiations. That applies in the case of the EU, and where the EU chooses to grant the UK equivalence, that will be done in accordance with its own decision-making process. EU equivalence determinations are unilateral and do not require the UK's agreement. Those decisions will be published and readily available to all, including UK parliamentarians.

I can reiterate today the Government's commitment to operating an open and transparent approach to equivalence as the Chancellor explained in his speech on 9 November. Our overall approach is outlined in the recently published guidance document on the UK's equivalence framework. That document makes it very clear that transparency will be one of the key principles of our equivalence framework.

As part of this, the Treasury will provide Parliament with appropriate information about the operation of the equivalence framework. After the end of the transition period, future equivalence decisions will be made by regulations laid before Parliament, giving Members the opportunity to consider and scrutinise the Treasury's decisions as part of the UK's normal legislative process.

As I said, the Chancellor recently announced a package of equivalence decisions following the completion of our assessment of the EU, where we took a thorough but proportionate outcomes-based assessment against the criteria in legislation. As the EU has confirmed publicly, there are many areas where it is not prepared to assess the UK at the current time. In the absence of clarity from the EU, we have made decisions to provide clarity and stability to industry, supporting the openness of the sector and to help to deliver our goal of open, well-regulated markets.

11.45 am

Those decisions will allow firms to pool and manage their risks effectively, and support clients on both sides of the channel in accessing our world-leading financial services in our highly liquid markets. I assure the Committee that we remain open and committed to continuing dialogue with the EU about its intentions on equivalence. The Government have taken all reasonable steps to co-operate throughout the process. I will keep the House updated on the UK's approach to equivalence for the EU and the rest of the world, as I have done throughout the transition period.

New clause 28, tabled by the hon. Member for Aberdeen South, relates to assessing the impact of the provisions of the Bill under different EU exit scenarios. The financial services sector plays a crucial role in supporting the UK economy, and it is right that the impacts of the measures in the Bill are assessed and well understood. That is why the Government have published an impact assessment alongside the Bill that sets out the Treasury's current understanding of the costs associated with each measure.

In the majority of cases, the Bill's measures will enable changes that require further action from the Treasury in the form of secondary legislation, or from the financial services regulators in the form of regulator rules. The changes enabled through the Bill are vital to enhancing the UK's world-leading prudential standards, promoting financial stability and maintaining the effectiveness of the financial services regulatory framework and sound capital markets. The final impact of the measures in the Bill will depend on subsequent decisions by the Government and the financial services regulators. Therefore, where appropriate, further details on the costs of each of the Bill's measures will be explained in the impact assessments for the secondary legislation and in the cost-benefit analysis undertaken by the relevant financial services regulator in due course.

More broadly, the UK has been clear since the start of the free trade agreement negotiations that we want an agreement with the EU that reflects the maturity of our financial services relationship, and we remain committed to reaching an agreement. Although it would not be appropriate to discuss the details of our ongoing negotiations, the Government will ensure that Parliament is kept informed of the analysis at the appropriate times, in a way that does not impede our ability to strike the best deals for the UK.

New clause 36 deals with regulatory divergence in financial services. I have been clear before, as the right hon. Member for Wolverhampton South East was good enough to reference, that the UK taking control over its own rules does not mean a race to the bottom. We will continue to adopt high regulatory standards, appropriate for our markets. However, we should also recognise that regulatory regimes are not static, and international standards for financial services develop over time, and develop all the time.

Both the EU framework and our own will continue to evolve to meet the needs of markets and firms. Therefore, both the UK and EU frameworks will inevitably change over time. We can see early examples in the EU through its consultation on the alternative investment fund managers directive. Several of the changes that we are making through the Bill reflect similar changes being made by the EU to its regime. It is therefore not helpful to view all developments in regulation through the lens of divergence or alignment with the EU. It is not appropriate, having left the EU, for the UK to continually compare itself with the EU regime that was in place when we left, which will become increasingly out of date, or with the continually changing EU regime.

Where we are making changes, or will do so in the future, they will be guided by our continued commitment to the highest international standards and by what is right for the UK's complex and highly developed markets, to support our world-class environment for doing business, ensure financial stability and protect consumers. In many areas, we already go beyond what EU rules require, and any future changes will be undertaken with consideration towards the impact of equivalence.

The Government are fully committed to ensuring accountability and scrutiny around new rules for the UK's financial sector. That will include following the usual requirements for impact assessments related to both primary and secondary legislation, giving Members of Parliament the opportunity to consider and scrutinise Treasury decisions as part of the legislative process. Where the responsibility falls to the financial services regulators in the form of regulator rules, it is accompanied by robust accountability and scrutiny mechanisms, as I have set out to the Committee in previous sittings. The Government will ensure that Parliament is kept informed with the analysis of regulatory changes at the right times and in a way that does not impede the UK's ability to strike the best deals with international partners. I therefore ask for the new clause to be withdrawn.

Mr McFadden: I want to respond to a couple of things that the Minister said. As I said when I moved the new clause, nothing in it stops divergence. There is no attempt to make sure that we are in lockstep with EU regulations for ever and a day. The new clause is completely silent on that.

Nor does the new clause pretend that the equivalence decisions that we seek can be within the gift of the Government. In fact, from the point of view of some of us, that is the problem. We would have a say over that at present, but we will no longer have a say in future. That is precisely why we are discussing this issue.

All that the new clause does is ask for a report on the outcome. What is the outcome for our financial services? It is like we are back on day one of our proceedings, when we talked about the different reasons for turning amendments down. The Minister has said that the Government will report regularly to Parliament, in which case the new clause would be entirely harmless. That is why we will press it to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 9.

Division No. 10]

AYES

Creasy, Stella
Flynn, Stephen
McFadden, rh Mr Pat
Oppong-Asare, Abena
Smith, Jeff
Thewliss, Alison

NOES

Baldwin, Harriett
Clarkson, Chris
Davies, Gareth
Glen, John
Jones, Andrew
Marson, Julie
Millar, Robin
Richardson, Angela
Rutley, David

Question accordingly negatived.

New Clause 4

Strategy for financial services

"(1) The Treasury must prepare and publish a report on the Government's strategy for financial services after the UK has left the European Union.

(2) The report should include statements on the Government's proposed approach to—

(a) regulation of the sector;

(b) market access for overseas firms;

(c) competitiveness of the sector; and

(d) the environmental, social and governance objectives for the sector.

(3) The report must be published within 6 months of the passage of this Act."—*(Mr McFadden.)*

This new clause would require the Treasury to produce a report on the Government's post Brexit strategy for financial services.

Brought up, and read the First time.

Mr McFadden: I beg to move, That the clause be read a Second time.

We are by definition entering a new world for UK financial services. Whether it is a brave new world, I do not know, but it is a new world. The measures in the Bill are a small part of that. We are onshoring EU regulations and, although we will still be part of globally agreed standards such as the Basel regime, we will have to decide what future we want in this sector. As the Minister has advised us several times, we should not see the Bill as the totality of what the Government are doing in financial services. There will be a future regulatory review, and there might even be future Bills, so this is one part of the picture. That creates difficulty for the sector, and perhaps for us, in trying to divine where we are going.

That is important because the UK has possibly the most globally significant financial sector of any country in the world. We learned the hard way what the risks of

[Mr McFadden]

that were in the financial crisis, when the sector ran into trouble. However, the converse is that if the sector is properly regulated, if it pays its way in terms of its taxation contribution, its contribution to innovation, its capacity to bring inward investment to the country and the employment it provides, and if it is properly run, it can also be a huge advantage for the UK. The new clause asks the Government to pull all of that together and take the pipeline of changes that they have in mind, together with the new context, and produce a strategy that gives clarity to the sector, the public and Parliament about where we are going.

That is not particularly unusual for the Government. They do that for other sectors. In the automotive sector, the Department for Business, Energy and Industrial Strategy has the Automotive Council UK, which brings together different players in the industry and looks at everything from supply chains and skills to inward investment. Over the years, it has played its part. The last couple of years have been pretty rocky, for reasons that we all know about, but up until then the UK had a growing, successful automotive industry. We were producing more and more cars each year, and we were very successful at winning inward investment.

If we take the parallel of financial services, there is plenty that such a strategy could cover. To name just a few obvious areas, we have a growing FinTech sector in the UK, which we want to succeed. It is doing more innovation, and we might hear more about that later. We have the development of cryptocurrencies, and it is in the public interest that we have a greater understanding of what that phenomenon is and what it means for investors, consumers and so on.

We have the green finance debate, which we have discussed a number of times over the past couple of weeks. If we really want the UK to be the leading force in green finance over the coming decades, what do we need to do to ensure that that is the case? We have also had an ongoing debate for some years about competition and about the challenges of getting new banking players into the UK market, which is, at the retail level, dominated by four or five high street names that account for the vast majority—90%-plus—of current accounts, deposits, savings and so on.

Then we have more difficult issues, which we have touched on, such as money laundering, fraud and so on. They are an ongoing challenge, and we will be talking more about them later this afternoon. There are probably a lot more, but those are the kinds of things that a financial services strategy might cover.

There is also the regulatory approach. Now that we are no longer going to be part of a common European rulebook, what is the philosophy behind the rulebook that we will have? What will it say to assure people that there will not be a race to the bottom? What will it say on capital to get the balance right between allowing innovation and protecting consumers from organisations that do not have enough resilience? Would there, for example, be a shift away from the traditional British strong focus on property investment to more investment in research, development, manufacturing technology and small business lending? That has been a constant theme. There is nothing partisan about it. There are many strong voices in the Conservative party as well as the Labour party speaking up for small businesses and raising the difficulties with lending and so on. That is also something that could be governed.

We spoke about the environmental, social and governance agenda. The Minister has been resistant to all our amendments on that. All the votes are on the record—we have had three or four of them. The Government do not want anything added to the Bill on environmental sustainability or anything like that. I have also said several times that the ESG agenda is really important for the UK, and the Government have said, at least in rhetorical terms, that they believe the same thing, so exactly how would it be advanced if not in the ways that we have tried to suggest—through the various amendments we have tabled to the Bill?

We have a lot of rebuilding to do as we recover from this pandemic. Many people have described it as a great acceleration in trends. There will be job losses, as the Chancellor tells us, and business closures. Many of the behavioural changes that we have seen in how people live, work and purchase things are likely to stay for a long time. A differently shaped day-to-day economy will emerge from this. Financial services will have a huge role to play in that, and Treasury Ministers will quite rightly want to say something about it.

12 noon

How will that be received by the sector? We heard in oral evidence that such a strategy would be welcomed by the sector, and we might even call this the TheCityUK new clause, because it has called for such a such a strategy. The new clause could link together all these things—the Bill, the future regulatory framework, the pipeline of legislation—with some of the issues that I outlined. We all want the UK to succeed in this sector and to succeed in the future. We have done this elsewhere through the Automotive Council UK, and there is every reason why we should want to do this for our world-leading financial services industry.

Alison Thewliss (Glasgow Central) (SNP): I very much support what the right hon. Member for Wolverhampton South East says. It is important that we look at this in the round, and particularly at the newer technologies coming into force that we will need as part of our economy going forward.

John Glen: I very much appreciate the sentiment behind the new clause. The right hon. Member for Wolverhampton South East set out all the different areas of focus involved in financial services, taking me through all our different calls for evidence and ongoing pieces of work—there are a number of others, too. However, the new clause is unnecessary.

Only a few weeks ago, the Chancellor made a statement to Parliament on the future of the UK financial services sector. Indeed, Miles Celic from TheCityUK described it as an "ambitious vision" for financial services. Across the range of different elements that the right hon. Gentleman set out, a lot of activity is ongoing. Indeed, a number of consultations are out at the moment. As the Chancellor stated, we are at the start of a new chapter for the industry, and our having an open, green and technologically advanced industry that serves the consumers, communities and citizens of this country and builds on our existing strengths, including our world-leading regulatory system and standards, was the essence of that vision. The UK will remain the most open and competitive place for financial services in the world by prioritising stability, openness and transparency.

The Chancellor set out new proposals to extend our leadership in green finance, including by taking the key step of introducing mandatory requirements for firms to disclose their climate-related risks within five years, making the UK the first country to go beyond the "comply or explain" principle. He also announced plans to implement a green taxonomy and, subject to market conditions, to issue the UK's first ever sovereign green bond next year. He set out his intention that the UK will remain at the forefront of technological innovation, to provide better outcomes for consumers and businesses.

The UK's position as a global and open financial services centre will be underpinned by a first-class regulatory system that works for UK markets. The Government already have several reviews under way, including the future regulatory framework review and the call for evidence on Solvency II, to highlight two. We also have the FinTech review, which will report early in the new year. That is the Government's strategy for financial services now that we have left the European Union.

I hope that I could not be accused, as the City Minister, of being unwilling to come before the House to provide updates on the Government's work relating to financial services, whether in the Chamber, Select Committees—I think I have made about 12 appearances now—or in Westminster Hall, or of doing that infrequently. The Chancellor and I will continue to provide updates at the appropriate times in the normal way.

Having considered the issue carefully, I ask the right hon. Gentleman to withdraw the new clause.

Mr McFadden: The Minister is right to refer to the Chancellor's statement on 9 November, which was called a vision. While it touched on the green finance things the Minister mentioned, it did not touch on many of the things that I mentioned. He is also right to say that lots of reviews are going on. While it may be unfair to say that that is the problem, there is nothing that really brings them together with clarity about where we are going. I will not press the new clause to a vote today, but we may return to it, so I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 5

Regulation of lead generators for debt advice and debt solution services

"(none) In section 22 of the Financial Services and Markets Act 2000 (regulated activities), after subsection 1A insert—

'(1AA) An activity is also a regulated activity for the purposes of this Act if it is an activity of a specified kind which is carried on by way of business and relates to—

(a) effecting an introduction of an individual to a person carrying on debt advice and debt solution services, or

(b) effecting an introduction of an individual to a person who carries on an activity of the kind specified in paragraph (a) by way of business.'"—*(Mr McFadden.)*

This new clause would empower the FCA to regulate activities such as paid search and social media advertisements, including the impersonation of reputable debt management charities.

Brought up, and read the First time.

Mr McFadden: I beg to move, That the clause be read a Second time.

This new clause is directed at reducing harm to heavily indebted people by clamping down on imposter or clone websites that might direct people away from legitimate avenues of advice without their knowledge. It was suggested to us by the charity StepChange, which reports a serious, large-scale and ongoing problem with imposter or clone sites posing either as StepChange itself or as another reputable charity and preying on vulnerable people in debt. In fact, StepChange estimates that as many as one in 10 people searching for the organisation online are inadvertently led to someone else.

This is not just one of the traditional issues of having time-consuming and frustrating discussions with web providers to get them to take some responsibility for what is on their platforms; it is also a matter of regulation. The new clause proposes to close a regulatory loophole: the activity of introducing an individual to a credit provider is regulated by the FCA, but the activity of introducing an individual to a debt advice or debt solution service is not. That loophole represents a gap in the picture, and the new clause seeks to close that gap by bringing lead generators for debt advice and debt solution services clearly within the FCA's remit.

The new clause is, perhaps, about quality control. It would protect consumers from clone sites and from unscrupulous operators who would prey on their financial problems. I argue that that becomes all the more important in the context of clause 32 and the establishment of statutory debt repayment plans, because the gateway to them will be through seeking advice from reputable debt advice and debt solution services. It would be entirely with the grain of the Bill, and the Government's policy intent, to ensure that that gateway is properly regulated by the FCA.

The Minister has been consistent in resisting every amendment and new clause over the past couple of weeks, and I appreciate that he has probably come armed with advice not to accept any amendments, even if they look okay, because there may be a drafting issue or something. However, if there is some reason in his folder why he cannot accept this new clause today or—hopefully this is not the case—if the optics of doing so, because it has been suggested by the Opposition, are somehow too difficult to contemplate, will he at least take the matter away and consider introducing a provision either on Report or at a further stage in the Bill's passage?

It is very much in the interests of the statutory debt repayment plans, for which he feels—I credit him for this—a big degree of personal ownership, that this regulatory loophole is closed, and that we do what we can to prevent people seeking that kind of help from being led away by unscrupulous operators on the internet. Instead, we must ensure that they are channelled to reputable advice organisations and solution providers—be it StepChange or somewhere else.

Alison Thewliss: I rise to support the new clause. It is typical of the eagle-eyed way that the right hon. Gentleman has approached this Bill that he found this particular loophole. I am not sure which of his pots he thinks the Government might think it falls into, but it is a sensible, minor change. The Government would do well to take it on now or bring it back at a later stage. We want to

[Alison Thewliss]

protect people who have fallen into that situation in every way we can. We all know that there are vultures on the internet who want to cut a share of that and exploit people. The new clause is a sensible and reasonable way of addressing that and I commend it to the Minister.

John Glen: I take this issue very seriously. I recognise the work of StepChange and I note the letter from Marlene Shiels, chief executive officer of the Capital Credit Union and her support for this. She makes a significant contribution to the Financial Inclusion Policy Forum that I chaired just last week.

The Government are taking strong steps to ensure that lead generators do not cause consumer harm. As the right hon. Member for Wolverhampton South East said, lead generators identify consumers in problem debt and refer them to debt advice firms and to insolvency practitioners. That can help consumers access appropriate debt solutions and support their recovery on to a stable financial footing. However, I readily recognise the risk that unscrupulous lead generators could act contrary to their clients' interests. To mitigate that risk, debt advice firms and insolvency practitioners are already required to ensure that any lead generators they use are compliant with applicable rules to prevent consumer harm in the market.

Under Financial Conduct Authority rules, that includes ensuring that lead generators do not imitate charities or deliver unregulated debt advice, and that they are transparent with clients about their commercial interests. As such, the FCA, as the regulator of debt advice firms—and the Insolvency Service, as oversight regulator of insolvency practitioners—already influences lead generators' impacts on consumers.

New clause 5 would not materially improve the FCA's influence over lead generators. Its scope would be incomplete, applying only in respect of lead generators' referrals to debt advice firms, not to insolvency practitioners. The Government have already issued a call for evidence on whether changes are needed to the regulatory framework for the insolvency profession and will publish a response next year. In the light of our recognition that the matter needs a focus and that work is being done on a response, I ask the right hon. Gentleman to withdraw the motion.

Mr McFadden: I am happy to do that. I just appeal to the Minister to try to find a way that he is comfortable with of closing the loophole. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 6

Duty of care for financial service providers

'(1) The Financial Services and Markets Act 2000 is amended as follows.

(2) In section 1C, after subsection 2(e) insert—

"(ea) the general principle that firms should not profit from exploiting a consumer's vulnerability, behavioural biases or constrained choices;"

(3) After section 137C insert—

"137CA FCA general rules: duty of care

(1) The power of the FCA to make general rules includes the power to introduce a duty of care owed by authorised persons to consumers in carrying out regulated activities under this Act.

(2) The FCA must make rules in accordance with subsection (1) which come into force no later than six months after the day on which this Act is passed.""—*(Mr McFadden.)*

This new clause would introduce a duty of care for the FCA which would strengthen the FCA's consumer protection objective and empower the FCA to introduce rules for financial services firms informed by that duty of care.

Brought up, and read the First time.

Mr McFadden: 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 15—*Financial Conduct Authority: regard to consumer detriment*—

'(1) The Financial Services and Markets Act 2000 shall be amended as follows.

(2) In section 1C(2), after paragraph (h), insert—

"(i) the prevention of consumer detriment, including but not limited to the promotion of unaffordable debt."

This new clause would require the FCA to have regard to consumer detriment, including the promotion of unaffordable debt, when exercising its powers.

New clause 18—*Duty of FCA to investigate and report on possible regulatory failure*—

'(1) Section 73 of the Financial Services Act 2012 shall be amended as follows.

(2) In subsection 1(b)(ii), at end insert—

(iii) a failure of the FCA to intervene earlier or otherwise act effectively to protect consumers."."

This new clause would require the FCA to carry out an investigation into the events and circumstances surrounding any significant failure to secure an appropriate degree of protection for consumers and make a report to the Treasury on the result of the investigation.

New clause 21—*Assessment of risks of consumer detriment*—

'(1) Schedule 6 of the Financial Services and Markets Act (2000) is amended as follows.

(2) After paragraph 2D(2)(c) insert—

(d) the risks of consumer detriment associated with the firm's business model and the likelihood for compensation claims from consumers."

(3) After paragraph 2D(3), insert—

"(3ZA) When assessing whether the firm has appropriate financial resources to meet the risks of consumer detriment and the likelihood of compensation claims from consumers, the Financial Conduct Authority must ensure that, at all times, firms hold sufficient financial resources to meet any likely compensation claims from customers in full.""

This new clause would ensure that the FCA considers the likelihood of consumer detriment arising from the firm's business model prior to, and following, authorisation, and that firm's hold sufficient financial resources to meet potential compensation claims from customers in full.

New clause 23—*Consumer redress schemes: FCA reporting requirements*—

'(1) In section 404A of the Financial Services and Markets Act 2000, at end insert—

"(10) Where the Financial Conduct Authority initiates a consumer redress scheme by virtue of the powers conferred in section 404 of this Act, and makes any provisions for its operation by virtue of this section, the Financial Conduct Authority must—

(a) provide an initial written report to the Secretary of State detailing its reasons for any of the provisions it has made for the redress scheme under section 404A;

(b) ensure that any instructions provided to an appointed 'competent person' under subsection (1)(k) are included in the above report; and

(c) provide a further written report to the Secretary of State detailing the outcomes from any consumer redress scheme, including copies of any "competent person" assessments relevant to the redress scheme.""

This new clause would require that the FCA provide written reports to the Secretary of State setting out the reasons for any decisions made regarding the parameters decided, and approaches taken, in designing, investigating, and implementing consumer redress schemes, and requires a report on the outcomes achieved for consumers to be made.

New clause 38—*Duty of care specification*—

'(1) The Financial Services and Markets Act 2000 is amended as follows.

(2) After Section 1C insert—

"1CA Duty of care specification

(1) In securing an appropriate degree of protection for consumers, the FCA must ensure authorised persons carrying out regulated activities are acting with a Duty of Care to all consumers.

(2) Matters the FCA should consider when drafting Duty of Care rules include, but are not limited to—

(a) the duties of authorised persons to act honestly, fairly and professionally in accordance with the best interest of their consumers;

(b) the duties of authorised persons to manage conflicts of interest fairly, both between themselves and their clients, and between clients;

(c) the extent to which the duties of authorised persons entail an ethical commitment not merely compliance with rules;

(d) that the duties must be owned by senior managers who would be accountable for their individual firm's approach.""

This new clause would mean that the FCA would need to ensure that financial services providers are acting with a duty of care to act in the best interests of all consumers.

New clause 39—*Duty of care specification on all financial services providers*—

'(1) The Treasury must by regulations require all financial services providers to act within a duty of care overseen by the FCA.

(2) The FCA may make rules to ensure all financial services providers act within the duty of care.

(3) Matters the FCA should consider when making duty of care rules include but are not be limited to—

(a) the duties of authorised persons to act honestly, fairly and professionally in accordance with the best interest of their consumers;

(b) the duties of authorised persons to manage conflicts of interest fairly, both between themselves and their clients, and between clients;

(c) the extent to which the duties of authorised persons entail an ethical commitment not merely compliance with rules; and

(d) that the duties must be owned by senior managers who would be accountable for their individual firm's approach.

(4) If before the end of December in any year the Secretary of State has not introduced a requirement for all financial services providers to act within a duty of care, the Treasury must—

(a) publish a report, by the end of December of that year, explaining why regulations have not been made and setting a timetable for making the regulations, and

(b) lay the report before each House of Parliament."

New clause 40—*Duty of care specification on all financial services providers (No. 2)*—

'(1) At least once a year, the Treasury must review the case for instructing the FCA by regulations to produce rules requiring all financial services providers to act within a duty of care.

(2) If, following the review, the Treasury decides not to introduce such regulations, the Treasury must publish and lay before Parliament a report setting out the reasons for its decision."

New clause 41—*Duty of care on all financial service providers*—

'(none) The Treasury must instruct the FCA to impose a duty of care on all authorised persons providing financial services activity regulated by the FCA by the end of 2021."

New clause 42—*Report on FCA's progress on duty of care consultation*—

'(1) The Treasury must prepare and publish an annual report setting out the FCA's assessment of the need for a duty of care and lay a copy of the report before Parliament.

(2) A Minister of the Crown must, not later than two months after the report has been laid before Parliament, make a motion in the House of Commons in relation to the report."

Mr McFadden: New clause 6 is about a duty of care for financial service providers and several other new clauses push in the same direction. It is fair to say that this has been under discussion for some time. A private Member's Bill was introduced on the subject in the other place about a year ago and the FCA has been involved in a long process of ongoing discussion about it for the past two or three years. The FCA produced a paper on it in 2018 and there was a response in April last year, although it did not reach a definitive conclusion.

Those who argue for a duty of care—I refer again to the charity StepChange—suggest that the current regulatory framework, even with the duty to treat customers fairly, which is part of the FCA's current advice and regulations to providers, does not provide adequate protection for consumers. They seek to prompt the question from a financial service provider, "Is this right?" rather than just, "Is this legal?" That is a helpful way of considering what difference a duty of care might make.

The legal definition of a duty of care, as quoted in the FCA's discussion document is,

"an obligation to exercise reasonable care and skill when providing a product or service."

Those who favour it believe that it will help avoid conflicts of interest, too and oblige service providers to act in the customer's best interests rather than, for example, putting the interests of the company above those of the customer it serves.

12.15 pm

Of course we can point to a number of mis-selling scandals in the past 10 years or so, where products were pushed on the basis of sales commissions and margins for the organisations that sold them rather than in the interests of the customers who bought them. This is why I believe that a duty of care would be in the interests of the industry as well as the customer. If we think about the amount of money that has had to be put aside as compensation for mis-selling scandals, what we call conduct issues—in the jargon of financial services—become prudential issues. So much money has put aside that we have to think, what more could we have done with that if that mis-selling had not happened? How much more could have been lent? How much more could have been invested in the economy? We have this ongoing situation where one scandal after another forces our financial institutions to set aside money to compensate people for mis-selling scandals, instead of putting capital to work in the way they are designed for. I therefore think a duty of care is in the interests of the industry as well as customers.

Another argument in support of the duty of care is fostering means of redress. I am sure all Committee members hold constituency advice surgeries, or we did until the covid pandemic made that much more difficult. We will all have constituents who have been engaged in lengthy and exhausting battles with banks and financial services institutions. The banks have always got expensive lawyers and many layers of being able to say no. It can take incredible tenacity on the part of our constituents to get results. In some cases I have seen, the degree of tenacity is deeply unfair on the individual and can exact an enormous personal toll.

The converse argument for those who do not want a duty of care is that it might not add much, or it could stifle innovation, because people would be scared of bringing in a new product in case it led to another mis-selling scandal. However, surely the innovation that is going on adds to the argument for a duty of care. We have already mentioned cryptocurrencies and digital currencies, and we will talk about buy now, pay later schemes this afternoon. My hon. Friend the Member for Walthamstow has tabled an amendment about those. As the sector innovates, does that not reinforce the argument to have a duty of care for the consumer? Some countries have done that. In the Netherlands, such a duty applies; in the United States, new rules have been introduced to require broker dealers to act in the best interests of retail investors; in Australia, there is a duty to act in the best interests of the client, and put the client's interests above the firm's. Many well-regulated, well-run countries have introduced something very much like this.

In its document, the FCA made clear that a statutory new duty would require "primary legislation", which is before us here. In a second document on this from April 2019, the FCA produced a feedback statement saying it wanted to do further work. Andrew Bailey, the FCA's chief executive at the time, said,

> "we now want to weigh-up possible changes".

That is where we are on this with the FCA.

Duties of care also exist in other fields, as the FCA pointed out in its discussion, such as tort law, negligence in contracts, duties of trustees to beneficiaries and the Consumer Rights Act 2015, so this can be done. Of course, it would have to be carefully defined. I point the Committee to the details of the new clause, because it is not prescriptive about how this should be done; it empowers the FCA to do it, giving it a six-month period in which to do so. This is work the FCA is already considering, so the new clause says the FCA should come to a conclusion on the general principle and then mandates the regulator to define that in the light of its principles and the rest of its work. It is not prescriptive.

I am sure members of the Committee will have seen the written advice that has come in in the past day or two backing up that point, which says:

> "While the FCA generally does a good job with the tools at its disposal, regulatory interventions tend to come after problems have already happened".

The new clause would recognise the "power imbalances"—I have spoken about those a few times in the past couple of weeks—

> "between firms and consumers in financial services markets. Paragraph 1 and 2 would do this by requiring that the FCA must have regard to the general principle that firms should not profit from exploiting a consumer's vulnerability, behavioural biases or constrained choices."

The advice goes on to give an example of where a duty of care might kick in, namely, unsolicited increases in credit card limits. It might be that the consumer has not asked for that at all, but they get a communication from the credit card provider saying, "Great news! We have increased your credit limit," from whatever it is to something significantly higher. The consumer might not have asked for it. It might not be in the consumer's interest, but it might be in the credit card provider's interest to get that person to spend more and pay more interest. That is a good example of where such a duty of care would give pause for thought for that kind of push tactic, which the consumer has not even asked for.

I stress that that is very different from a consumer going to their credit card provider and asking for an increase in their credit limit; of course, that should be available to consumers. We are not being prescriptive on personal freedom, but we are saying that this could go some way to redressing the imbalance of power and information between financial service providers and their consumers. That is why we have tabled the new clause.

Stella Creasy (Walthamstow) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Davies, as ever, for the last time on this Bill. Let us make it a good one. I will try to keep it lively and maybe capture the attention of everybody on the Committee about the things we can do.

The new clauses provide the moment to finally talk about the big beast in this Bill: the Financial Conduct Authority. I say "big beast", because, as someone who has tracked not only high-cost credit, but credit companies—as I know the Minister has for many years—I sometimes feel like Bob Peck in "Jurassic Park", who played the warden, Robert Muldoon, who tried to warn people about the velociraptors, but was also supremely impressed by the way in which they evolved to be able to kill. In this case it is about evolving to be able to exploit.

It matters that we take a careful look at what the FCA is doing, because the FCA is our constituents' best defence against the velociraptors of the credit industries in this country. I use "credit industries" widely, because for me this is not just about the high-cost credit industry. However, in supporting the new clauses, I want to share with the Committee the experiences around the high-cost credit industry and, in particular, the pay-day loan sector, because I think they speak to the challenges with the Financial Conduct Authority and why we need to amend the Bill, to ensure that as we give the FCA more powers, it truly has our constituents' interests at the forefront of its mind.

I do not doubt the impact that the FCA has had. I want to put that on record, because the Minister and I have talked for a long time about my concerns about the FCA. I acknowledge that it has made progress. My point is about the pace at which it has made progress, about cutting through the stand-off that we sometimes see, whereby people recognise that this is a problematic type of credit or, as my right hon. Friend the shadow Minister has talked about, where issues arise for our constituents—the people who come into our constituency offices and tell us about their ongoing battles—and about ensuring that we do not just give them protection, which means avenues for redress, but actually prevent those problems. I believe that the FCA was set up to prevent problems, but if we look at its track record in some of those problem areas, we see where delays in dealing with them has led to our constituents paying the price.

Bear with me, Committee; I think it is worth sharing that example, because it explains why these amendments make sense. Indeed, I believe the Minister agrees with me on this. A bit like earlier, with the lead generators, I am sure he already has a folder full of examples of where the FCA has done brilliant work in tackling consumer detriment. In fact, I can see all the paper—goodness me, all the trees that have gone into that! However, I know that he wants the FCA to be more agile and does not want to have people like me continually coming to him and him knowing that there is a problem, but seeing this trade-off, as this aspect is overthought almost, with too much emphasis on the unintended consequences of acting and no emphasis on the unintended consequences of not acting on some of these issues. In order to cut through that, these amendments would give a clear direction to the FCA about what consumer detriment is, why and how it needs to act, and the particular issue it needs to take into account when it comes to debt.

On Tuesday, we talked a lot in this Committee about the debts already in our communities and the debts to come, which is why this is an urgent issue that cannot really be dealt with in another review or consultation, which will go on for 18 months, because by then, in every one of our constituencies, too many people will have lost their jobs and possibly their homes, and will be in what we are calling problem debt for decades to come. Indeed, I believe this Committee is already having a positive impact on that conversation, because on Tuesday we talked about the importance of making problem debt as much of an issue for the sidebar of shame in the *Daily Mail* as Kim Kardashian's derrière, and last night I saw that the *Daily Mail* had started talking about the horror of middle-class people having to go to food banks.

Clearly we are starting that conversation in our country, but we need to do much more. Why do we need to do much more? Because it took too long to deal with the payday lending industry. In 2010, when I was first elected, I already knew many colleagues in this place were seeing these companies on their high streets and the problems with the eye-watering interest rates, where people thought they had missed where the decimal point was. Yet nothing was done for years, and those companies exploded, not just in our high streets but online, and our constituents got into huge amounts of debt. I know that the Minister agrees with me that it took too long. I know, too, that the Minister is not his predecessor, who, when I first went to see him about payday lending, literally patted me on the back, congratulated me on finding an issue that I could issue a press release to my local community about and sent me on my way. I know he is not like that; he recognises when there is a problem. However, if he looks at the regulatory history of the FSA on this issue, he will also see that there was a problem.

Let me set that out with companies that people will have heard of. They will have heard of Wonga, QuickQuid and BrightHouse, all of which operate in constituencies across the country. All these companies have collapsed or are in financial difficulty because of the debts they owe to their customers, our constituents, because of the way in which they lent them money on credit. They have not collapsed as a result of the work of the FCA, but because of the work of the ombudsman. In 2014, when Wonga was clearly a problem for so many of our constituents, the FCA agreed a redress scheme for 375 customers and announced that it had appointed a skilled person to monitor the new lending decisions that Wonga was going to make, to ensure that the issue was sorted. In November 2015, the FCA agreed a redress scheme for 4,000 QuickQuid customers worth £1.7 million, and in October 2017 it agreed a £14.8 million redress scheme for 250,000 BrightHouse customers in respect of 384 agreements for lending that may not have been affordable.

That is the critical issue here. At every point, the FCA has acted to look at the affordability of the loans. However—given it is that time of year—it does not take a rocket scientist to work out that if we ask turkeys to decide what is on the menu for Christmas, they will often say that a nut roast is better, and that is what happens when we ask these companies whether a loan is affordable. They would tell their clients that they could afford these loans, because the way they made their money was to re-lend. It was not for someone to borrow from them and pay it all back—it was for that person to borrow from them and get into a cycle of continually borrowing from them, because they would make a lot more money. Once a person was hooked, they would borrow and borrow. That was the decision about affordability.

At various points the FCA has been brought into these companies to determine whether they were making good affordability decisions—whether, in layman's terms, they were ripping off our constituents. At every point, that affordability decision did not meet the needs of those customers. How do we know that? Because the ombudsman then had to interfere to help people who were in debt. The result was the same: the lenders all fell into administration, not because of the action of the FCA but because the ombudsman was making them repay our constituents, who had been ripped off by them.

12.30 pm

If that is not a troubling outcome of what is supposed to be regulation by the FCA in defence of the consumer, I do not know what is. The FCA failed continually—at every turn—to stop consumer harm being caused by these companies' irresponsible lending practices when it had the chance to do so. Only 4,000 customers were assisted by QuickQuid, but by 2018 it had become the company that was most complained about to the financial services ombudsman—excluding complaints about PPI matters. There were more than 10,000 complaints against it that year.

For a long time QuickQuid refused to refund interest on any loans taken more than six years before. That resulted in a huge backlog of claims with the financial ombudsman. QuickQuid made poor offers to consumers and then rejected the adjudicator's decision. Eventually, in 2019, because of what the financial ombudsman was doing, QuickQuid accepted that it needed to pay out compensation. A similar story happened with Wonga and with BrightHouse.

There are other companies that Members will have heard of, such as Sunny, where the FCA has not intervened, but it is the same story. Opportunities to intervene early and stop the detriment to consumers were missed by the FCA, and we left it to the ombudsman. It is critical to think about the ombudsman, because, as I have said, I have tabled other amendments on matters where the ombudsman cannot be brought into play, and that is even more troubling. The ombudsman was the slow-moving organisation—the diplodocus, if we are going to carry on with the dinosaur comparison—against the velociraptor of the payday lenders, with the half-hearted triceratops at the FCA trying to protect people. I will stop with the dinosaurs. I might continue with Christmas references as we go on. My point is that when the FCA was presented with evidence of consumer harm it balked. Because it balked, the ombudsman had to step in. That is not a unique situation.

This is not just about high-cost credit. There is so much data now that shows that someone is actually better protected in this country if they take out a loan on high-cost credit through a payday loan, because of the capping—we will come to that in later new clauses—than if they take out a loan on their credit card. Millions of people in this country are in problem debt, as defined by the Minister, on their credit cards. He knows my concern about the fact that the FCA has yet again put back the idea of intervening in the credit card market, saying that what matters now is to tell people about affordability.

It is as if being tied to the train track and told when the train is coming to the station—which is what happens to our constituents when they have high levels of problem debt on their credit card and do not have the money coming in to pay it off—will make a difference and stop them borrowing, when they are borrowing, as we said on Tuesday, to pay for basic living expenses.

Yet again the FCA has balked. There is evidence, time after time, from the seven years of the FCA's existence, that it does not have an understanding of what we mean by consumer detriment. It does not have the proactive approach to companies in relation to exploitation that we need it to have. Exploitation in the credit industry is like water. It will find a way through every loophole, just as my right hon. Friend the Member for Wolverhampton South East said on a previous new clause about debt generation lead agencies. These people find a way through because there is money to be made and there is exploitation to be offered.

We have seen that the FCA has been too slow in its approach to recognise that. As a result, consumers have not yet been protected. They have certainly felt the detriment. The new clauses are about saying, "This isn't okay. Actually, seven years on from setting up the FCA, if we are going to give you more powers, we want to see more strength when it comes to protecting our constituents."

New clause 15 is about the consumer protection objective. The Financial Services and Markets Act 2000 says a range of things about what consumer protection is, but it does not mention debt. If we think debt is a problem, surely we should be saying, "We want to protect you from unaffordable debt." This is not about people never getting into debt; it is about the consequences of unaffordable debt, which we all see in our constituencies.

New clause 15 adds to the list of issues around protection the concept of

> "the prevention of consumer detriment, including but not limited to the promotion of unaffordable debt."

Government Members may consider it obvious that protecting people from unaffordable debt should be covered by consumer protection, but the evidence of the history of the FCA is that that has not been the case. I say to every Government Member that they may be sitting in their constituency surgeries when somebody comes in with a plastic bag full of all the correspondence they have had, and it will be clear that they have been ripped off and have got into financial difficulties. If Government Members do not want to make that a regular occurrence, they need the FCA to be on that, and we need clear guidance from Parliament.

The honest truth about the conversations that we have had with the FCA is that it looks to Parliament, and Parliament looks to the FCA, to act. The consequence is that nobody does, and we take too long. We have continual reviews and say, "Let's give the market a bit more time to get its act in order." It seems common sense that these companies would not exploit people, because then those people are unable to pay them back—until we understand that it is in the process of hooking people in, being their only lender of repute and being the one they owe money to that they make their money.

I do not want to be Cassandra on this. There are many new types of industry, which we will come on to this afternoon, particularly the buy now, pay later industry, where we see exactly the same patterns of exploitation—the water running through the loopholes. Fundamentally, the FCA knows of their existence too, but it is too slow to put consumer detriment and clarity about unaffordable problem debt at the heart of what it does. New clause 15 adds that in.

New clause 18 adds to section 73 of the Financial Services Act 2012 and requires the FCA to investigate when it has not acted. Surely, seven years on, we want the FCA to be a learning organisation. I found it fascinating that the FCA was robust in its defence of how it is doing brilliant things on high-cost credit. If we look at the history of the Wongas, the QuickQuids and the BrightHouses and of where action has happened, the FCA not be very proud of it. However, I am more concerned that it has no obligation to learn from when it should perhaps have intervened.

If we want the FCA to be able to protect our consumers in the future, we need to add a request that one of the things it has to consider is a failure of its own to intervene, which is what happened in the payday lending industry, what I believe is happening in the credit card industry, and what is happening in the guarantor loan industry. Members may have seen the adverts for Amigo Loans; many may have already had somebody come into a constituency surgery who is in difficulties with those loans. Again, we will come on to them this afternoon. New clause 18 adds the words

> "a failure of the FCA to intervene earlier or otherwise act effectively to protect consumers"

so that we can learn. Surely we never want to see the FCA miss an opportunity to protect our constituents again.

New clause 21 is about covering the costs of failure. That is critical, because right now there is a huge, horrible irony that there are people who are being chased by the creditors of Wonga who are owed money in compensation because of what happened with Wonga. Many of these companies, which made billions of pounds for their original founders, did not have the resources to cover their obligations when it was found that they were exploiting people. Again, it is self-evidently good practice that a company should be able to cover its potential liabilities. New clause 21 asks the FCA, when it is thinking about authorising a company, to ensure that it can cover any potential cost of compensation for our constituents.

Surely we have a duty to people who are owed money because of a financial ombudsman ruling, but who are also being chased for money that they borrowed that was unaffordable—that is why they are owed compensation—to put this right and to ensure that we do not authorise companies that rip people off and then leave them trying to pay double the price, without the cash that they are owed and while being chased by those companies. That is what new clause 21 does.

Finally, new clause 23 is about the ability of the FCA to impose redress schemes. Clearly the redress schemes that it imposed on the payday lending companies were deficient. Had they been effective we would not have seen all those people continuing to take out unaffordable loans after the FCA got involved with those companies, with the financial ombudsman having to step in and clean up the mess that was created. New clause 23 is about how those decisions are made, and it would require the FCA to produce the evidence.

Like Bob Peck, I have been trying to understand what has been going on—I apologise to the Government Whip for using another dinosaur reference; I will stop now. Why did this take so long? Why were people left without the money to which they were entitled? There is no clarity. The FCA does not have to publish the details of how it has managed these redress schemes, so the risk is that we cannot scrutinise how it got it so wrong in this instance and whether it is getting it wrong in other instances. The new clause would require the FCA to provide that evidence to the Treasury, so that we can understand where it has drawn the line on the redress schemes.

Taken together, this package would make the work of the FCA effective. It is not about saying that the FCA cannot do its job. Do we think, however, that it could have done things better over the past seven years? Yes, we do. Do we recognise that some of that is about the clarity of its responsibility to consumers? Yes, in which case we as the political leadership in Parliament need to give it clearer direction about the issues that it should be looking at, because when we give it extra powers, it is clear that consumer protection is not in itself strong enough on consumer detriment. Detriment is about preventing the problems in the first place, and protection is about ensuring that people have redress. It is clear that consumers have used the redress scheme in the Financial Ombudsman Service, but we would all rather that they did not have to suffer problems in the first place.

I do not want to pre-empt what the Minister is going to say. I know that he shares my concerns to make sure that we get this regulatory regime right, but I want to know whether he genuinely thinks that the way in which the FCA handled the high-cost credit industry in terms of payday loans—there are many other parts of the high-cost industry—was as effective as it could have been. When he looks at those figures with the Financial Ombudsman Service, can he really say that that was the impact he expected the FCA's intervention to achieve? That includes the extra years in which Wonga, QuickQuid and BrightHouse continued to lend unaffordable amounts to people—and we know they were unaffordable because otherwise the Financial Ombudsman Service would not have intervened. If he is going to tell me that that is an effective form of regulation, I think we have a problem, because that means that our constituents will always play second fiddle to the industry and the small "c" conservative definition of protectionism.

Even if the Minister does not accept these new clauses, I hope he will explain how he will make sure that consumers get a better deal from the FCA, because I really do not believe that he can defend what happened with the payday lending industry. I know that he is looking at the buy now, pay later industry and the guarantor loans industry, and that he has looked at the issue of consumer credit data on credit cards. Above all, I know that in the current environment somebody will visit his constituency surgery soon—as happened to me, which is why I got involved in all this in the first place—holding letters from the Financial Ombudsman Service and red letter bills, with fear in their eyes because they are in a hole they think it is impossible to get out of, asking who can help them. The answer should have been the FCA. It was not over the past seven years, but if we get this Bill right, it can be for the next seven.

Alison Thewliss: I am very pleased to follow the hon. Member for Walthamstow, because she has been a force of nature on this issue, and I do not disagree with a single word she has said about high-cost credit. The Government really should be listening to her, given her expertise.

I want to speak to new clauses 38 to 42, which stand in my name and that of my hon. Friend the Member for Aberdeen South and focus on duty of care. I pay tribute to Ceri Finnegan from Macmillan Cancer Support, who got in touch when the Bill received its Second Reading and suggested a duty of care. I also pay tribute to the people on the ground in Glasgow who are doing amazing work through Glasgow libraries to support those with cancer and their families, intervening and supporting them when they face financial issues, so that they do not end up getting into greater debt and greater financial difficulties. That prevention aspect is incredibly important.

It is clear to me and to many in the sector that the current situation with the FCA is not working. The StepChange briefing states:

> "It is notable that after 20 years of FSMA, the FCA is still talking about culture and has recently consulted on substantial new guidance to ensure firms treat their customers who are particularly vulnerable to detriment fairly. We strongly support this guidance but note that the FCA states that 'the guidance itself is not legally binding'."

The fact that it is not legally binding is the problem here, because if no one is being forced to do these things, they are not going to do them in a lot of cases. Some will, but that cannot be relied on, and customers cannot rely on that either. It could well be that one financial services organisation treats people fairly and another one does not, which, again, causes greater stress and confusion.

12.45 pm

Macmillan proposed the change for several reasons. Its research suggests that only 11% of people tell their bank about a cancer diagnosis, which is really quite a tiny number considering how widespread cancer is. Macmillan suggests a number of reasons for that, but it would be much better if the banks assumed that people may be vulnerable. Macmillan further suggests that many people living with cancer and struggling with the financial impact of their diagnosis will find it difficult to seek and access support. One in three people with cancer experience a loss of income from employment following a diagnosis—£860 a month on average—which makes it more difficult for them to pay their bills or meet any other obligations, which is why this proposal is so relevant.

A patchwork of regulation is diffused across the different parts of the regulatory framework that accord with some of the key duty of care principles. Those include senior level accountability, competence of all customer-facing staff, acting in the customer's best interests and tailoring products to individuals' needs. Our new clauses would introduce a duty of care to consolidate and provide consistency of outcomes for consumers across authorised financial providers, because people in certain situations can easily fall through the customer protection safety net without providers having done anything wrong or broken any rules whatsoever.

As the hon. Member for Walthamstow pointed out very clearly, the current approach to regulation is reactive. Firms are sanctioned after they have failed to act in the interests of customers, and a duty of care would turn that around and ensure that the risk of harm to a customer was assessed pre-emptively and proactively. Authorised persons may also currently regard customer protection as a compliance tick box, rather than recognising that it means actively doing the right thing for consumers and anticipating that need. If people felt as though the financial institutions they deal with were taking that approach, perhaps more than that 11% would be willing to get in touch before they got into further problems.

The FCA has produced papers and guidance for businesses on treating customers fairly in practice, and it aims to provide clarity on its expectations for how businesses should respond to the needs of vulnerable customers and understand what treating customers fairly means in practice. Through that work, the FCA has found that its own regulation does not work consistently in the best interests of vulnerable customers, including people with cancer. In the 2020 "Guidance for firms on the fair treatment of vulnerable customers"—the feedback statement and second consultation on how firms should treat vulnerable customers—the FCA acknowledges that

> "not all firms treat their vulnerable customers fairly, with the consequence that these consumers experience harm"

and that

> "some firms are failing to think about vulnerability or ensure the fair treatment of vulnerable consumers is fully embedded into their business. As a result, there is inconsistency in the way vulnerable consumers are treated."

That should give us cause for concern.

The right hon. Member for Wolverhampton South East mentioned the issue of unsolicited credit card increases. StepChange also pointed out that a duty of care could affect persistent debt in the credit card market. It feels that a greater focus in regulation on appropriate product design could have prevented products from being designed in such a way that people could fall into this persistent debt. That turns the issue the other way around and looks at where the problem is just now, asking how we can prevent such things from happening and foresee the harm that people will fall into. Our new clauses and the others proposed today look at things from the other way around. We should not want people to be in harm, and we should look for ways to turn things around.

I want to say more about what a duty of care would look like. It would place a requirement, articulated in law, on firms to take a pre-emptive approach to minimising harm to consumers. That should be based on a set of key principles that firms must then adhere to, and it should contain the following: an understanding that both a failure to act and acting without due care can cause harm to people with vulnerabilities, and a need to identify customers at potential risk of harm and to anticipate, investigate and understand their needs. Perhaps businesses should look a wee bit more at what is going on with someone's account: "Why has something changed? Why has something happened here?"

A duty of care should require firms to act in the best interests of their customers at all times and to seek to achieve the most positive possible outcomes for them. It should require a flexible and responsive approach, recognising that the customer's situation and needs may change over time, and it should require businesses to make fair and balanced decisions based on a realistic assessment of risks. All financial service providers having a legal duty of care to people using their services would encourage and empower people with cancer or other potential vulnerabilities to contact the provider early and ask for the help they need—it would make them feel comfortable doing so. Providers would promote the support available to customers, including short-term measures to help people to manage the financial impact of their condition in periods of financial difficulty, preventing their money worries from spiralling out of control. The people that this would affect probably have enough worries to be going on with, and we want to be able to lift that burden from them.

Customers should easily be able to access forbearance from their provider, including flexibility in mortgage payments and interest freezes on credit cards and loans, without damaging their credit files. That would prevent long-term harm and exclusions. Customers would have a clearer path to compensation when things do go wrong, because a provider would have clearly failed in its duty of care. By fostering a change in culture and practice, a duty of care would ensure that providers used inclusive product and service design to anticipate and meet the needs of a changing population and customer base.

I will give a couple of examples from case studies, which Macmillan has very helpfully provided. First, it has cited the story of Chris, who said:

> "Just completed a 6-year IVA so banks not willing to help me. We never missed a payment for 5 years, did not take holidays or do anything as we took this seriously and yet we are still being punished by the banks who make decisions based on computer programs.
>
> There was a loophole which meant I did not qualify for the 2 grants promised to Self Employed individuals. I have been self-employed since Feb 2019, paid my taxes, asked for nothing and yet when my family needed the assistance, we got nothing.

> Our savings are gone…I have not found employment to date, my wife has been on furlough, so we are not in a good place. Universal Credit does not cover our rent which is not high, so how we are meant to live is a mystery. We have had to resort to selling items in order to get up to date with the 'rent easing'…as our landlord has insisted, they want it back by Jan 2021."

People have a lot of other things going on, and it is worth the financial institutions recognising all those things, seeing where people are vulnerable and stepping in—particularly now, when we face the covid-19 situation.

Macmillan also cites Angela's situation:

> "Angela's son was diagnosed with rectal cancer at the age of 34 and his condition has left a substantial financial strain on the whole family. In addition to caring for him after surgery and chemotherapy, Angela has been managing most of her son's day-to-day finances and 'juggling all the money and bills'. She finds this quite stressful and worries about missing payments. The family haven't disclosed their son's cancer to his bank, because they're worried about getting a 'black mark' against his credit rating."

That is the last thing that people should have to worry about in these circumstances, but it is clearly a worry for many people. The case study continues:

> "Instead, they have moved into his house and have been servicing the mortgage on his behalf for the past year. Angela says she would rather lose her own house than her son's"—

what a choice that is for people in such a situation—and it says:

> "Despite the impact of this on their own financial situation, they haven't yet told their own bank."

The banks must know that something has gone wrong here—they are seeing changes in people's behaviour, spending and payment patterns—but they have no obligation to do much about it. Angela's family

> "have spent over £30,000 whilst their son has been ill. Travel alone…cost Angela and her son over £1,500".

Banks and other financial institutions have a duty to look at things more carefully, and to take their duty of care seriously. Organisations that support the introduction of this duty of care include the Money Charity, Fair By Design, StepChange, Age UK, the Alzheimer's Society and the Money and Pensions Service, as well as Macmillan Cancer Support.

This Bill is a portfolio Bill, as the Minister has said. In it, he has the opportunity to put something right, to address the situation and to take action to prevent people from falling into far more difficulty than they ought to.

John Glen: I thank the hon. Ladies and the right hon. Gentleman for their speeches, to which I have listened carefully. I will try to address fully the 10 new clauses that have been tabled. In essence, they relate to the effectiveness of the FCA's oversight; that is the substantive point behind them.

The lead new clause is new clause 6, which has two functions. Subsection (2) requires the FCA to have explicit regard for vulnerable consumers when discharging its consumer protection objective, and subsection (3) introduces a statutory requirement for the FCA to make rules requiring authorised persons to adhere to a duty of care when providing a product or service.

UK financial services firms' treatment of their customers is governed by the FCA in its principles of business, as well as specific requirements in its handbook. The FCA's principles for businesses require firms to conduct their business with due skill, care and diligence, and to pay due regard to the interests of their customers and treat them fairly. The FCA already has recourse to disciplinary action against firms that breach the principles.

The FCA has already announced that it will undertake work to address potential deficiencies in consumer protection, in particular by reference to its principles for businesses. Although the coronavirus pandemic has caused the FCA to reprioritise its resources and delay certain pieces of work, including the next formal stage of this work, delaying these initiatives has ensured that firms are able to focus on supporting their customers, including the most vulnerable, during this difficult period.

I draw attention to the second purpose of new clause 6, alongside new clauses 38 and 39, which require the FCA to introduce a duty of care. A number of other amendments here also relate to the duty of care.

The Government believe that, as the FCA is already taking steps to ensure that consumers are treated fairly and financial services firms are obliged to exercise due care and regard when offering products, services and advice, a statutory duty of care requirement is not necessary. I have already set out a number of actions that the FCA is taking to ensure that customers are properly protected.

On new clause 39 in particular, the Government believe that the scope, which applies to all financial services providers, is inappropriately broad. For example, it is unclear whether that would include persons exempt under the exemptions order, which includes entities ranging from central banks to any employer offering a cycle-to-work scheme. Furthermore, there is no indication of the territorial scope of the financial services provider. Assuming that the duty of care would apply only to actions being done within the UK, the vagueness is still likely to lead to enforcement difficulties if a provider is based outside the UK.

Finally, it is inappropriate to apply the provisions to all financial services providers as no assessment has been made, in relation to unauthorised firms, of the extent to which the existing common law and other consumer protection legislation is or is not sufficient to achieve the right level of consumer protection. For example, where providers are subject to supervision or oversight by other professional bodies, as is the case with professional firms, it is unclear how this proposal would interact with the remit of those bodies who may be better placed to assess matters relevant to duties of care.

New clause 40 would require the Treasury to review at least once a year the case for instructing the FCA to introduce a duty of care for all financial services providers. The Treasury will of course keep this question under consideration. However, it is disproportionate to set this requirement in statute. I have already set out the actions that the FCA is taking to ensure that customers are properly protected.

I want to pause here and note that I have enormous respect for the perspectives of the hon. Member for Walthamstow on this issue. I do not have her encyclopaedic knowledge of dinosaur names, but I do respect her engagement on the issue. I have engaged very closely with the FCA. I recognise that she is still dissatisfied with where things have got to and she makes some reasonable points, on which I am happy to continue the dialogue, but there have been significant changes in recent months with respect to the work that is going

[John Glen]

on—that is live at present. I suspect she will not be satisfied, but let me carry on and then we can see where we get to at the end of this.

On new clause 41, the Government believe that the FCA, as the independent conduct regulator for the financial services industry, is best placed to judge the merits of a duty of care for the financial services industry. It would therefore be inappropriate for the Treasury to instruct it to impose a duty of care on authorised firms, although that dialogue is ongoing.

On new clause 42, the FCA has already published a feedback statement following its discussion paper on duty of care last year. The FCA will also publicise the findings of its upcoming work on how to address potential deficiencies in consumer protection. Therefore, the Government view is that it would be unnecessary at this point for the Treasury to report on the FCA's position on the need for a duty of care.

The Government believe that there are sufficient protections in place without expanding the FCA's statutory consumer protection objective or introducing a statutory duty of care, but I reassure members of the Committee that we will continue to work closely with the FCA to keep this issue under review—I am not saying "No, never."

New clause 15 would require the FCA to have explicit regard to the prevention of consumer detriment, including the promotion of unaffordable debt, when discharging its consumer protection objective. The Government believe that the FCA, as the UK's independent conduct regulator, is best placed to judge how to protect financial services consumers from detriment, including that which arises from the promotion of unaffordable debt. The existing legislation accounts for the prevention of consumer detriment as a result of section 1C(2)(e), which outlines

> "the general principle that those providing regulated financial services should be expected to provide consumers with a level of care that is appropriate having regard to the degree of risk involved…and the capabilities of the consumers in question".

Stella Creasy: I am conscious of time, but approximately 1 million households that could ill afford it have lost out on about £1 billion of compensation from Wonga and QuickQuid. Does the Minister really believe that under the existing regime that he is defending, there has been sufficient recognition of what it means to consumers when it goes wrong, and that there is no need for change?

1 pm

John Glen: There is ongoing work and ongoing evolving action by the FCA. The Government have taken strong steps to prevent problem debt from occurring and to support those who fall into it. We want to make sure that people have the guidance, confidence and skills to manage their finances. That is why we established the Money and Pensions Service last year to simplify the financial guidance landscape, to provide more holistic support for consumers, and to give free support and guidance on all aspects of people's financial lives. I welcome the publication of its UK strategy for financial wellbeing, which will help everyone to make the most of their money and pensions.

I have already mentioned the role played by the FCA's principles of business. Further to that, the FCA has recently concluded a consultation on guidance for firms on the fair treatment of vulnerable customers. The protection of vulnerable customers and consumers is a key priority for the FCA. Although many firms have made significant progress in how they treat vulnerable consumers, the Treasury and the FCA want the fair treatment of vulnerable consumers to be taken seriously by all firms so that vulnerable consumers consistently receive fair treatment. I think that was the key point made by the hon. Member for Walthamstow.

Despite those preventive measures, I recognise that many people still fall into problem debt. Professional debt advice plays a vital role in helping people to return to a stable financial footing. That is why in June the Government announced £37.8 million of extra support, which brings the budget for free debt advice to more than £100 million this year. From May, the Government are delivering the first part of the new breathing space scheme, as discussed in Committee, for problem debt. That gives eligible people a 60-day period in which fees, charges and certain interest are frozen and enforcement action is paused.

We discussed on Tuesday the importance of the statutory debt repayment plan, as part of the debate on clause 32. The Government believe that sufficient protections are in place without expanding the FCA's statutory consumer protection objective. However, I reassure the hon. Lady that the Government will continue to work closely with the FCA to keep that issue under review.

New clause 18 would introduce a duty on the FCA to launch investigations in situations where there is suspected regulatory failure as a result of inaction or a lack of effective action by the FCA, but that is already covered by section 73 of the Financial Services Act 2012. That section imposes a duty on the FCA to investigate where it appears to the FCA that events have occurred that, among other things, indicate

> "a significant failure to secure an appropriate degree of protection for consumers"

either by the FCA or otherwise, and where those events might not have occurred but for a serious failure in the regulatory system, or operation thereof, established by FSMA 2000.

Further, section 77 of the 2012 Act enables the Treasury to require the regulators to conduct investigations in cases of suspected regulatory failure in circumstances where it does not appear to the Treasury that the regulators are already doing so, for example under section 73. The section 77 powers are broader than those set out in section 73, in that the Treasury can require the regulators to conduct an investigation into relevant events where it considers that it is in the public interest to investigate them. In addition, section 77 investigations can consider aspects outside the regulatory system as established by FSMA, which allows a comprehensive review to be undertaken in the public interest. Those existing powers ensure that, in cases where section 73 does not apply, a mechanism remains to ensure that investigations can be conducted in the public interest.

If I understand new clause 21 correctly, it reflects the ongoing concerns of the hon. Member for Walthamstow that she has raised in Parliament previously, specifically about circumstances where a firm fails but compensation is owed to a consumer. While I am sympathetic to these concerns, the Government believe that the FCA, as the independent regulator, is best placed to judge the resources that authorised firms need to maintain in order to carry out regulated activities.

I should explain that the FCA is already required by schedule 6 of the Financial Services and Markets Act 2000 to consider whether a firm's resources are appropriate to the activities it carries out. It is obliged to take into account the nature and scale of a firm's business, as well as the risk to the continuity of the services it provides to consumers, and must consider whether the business is to be carried on in a sound and prudent manner, with particular regard to the interests of consumers. The legislation also already requires the FCA to consider how a firm's potential liabilities might impact the resources it should hold. The Government therefore believe that this new clause does not add anything further to the FCA's requirements that already exist in legislation.

Once again, I would mention the FCA's principles for businesses, which already require firms to maintain adequate financial resources and organise their affairs with adequate risk management. The FCA has recourse to take disciplinary action against firms that breach these principles. Therefore, the Government believe that there are sufficient provisions in place to ensure consumers can access compensation where they have suffered detriment.

Finally, I turn to new clause 23. I should first note that the launching of any consumer redress scheme is a significant undertaking, and it is right and proper that the process be open and transparent. The new clause proposes making amendments under section 404A of the Financial Services and Markets Act 2000, referred to as FSMA, which provides the FCA with rule-making powers for consumer redress schemes.

However, the existing legislation already sets out a number of requirements governing the actions of the FCA, including provisions to ensure that its actions are transparent. Rules made under section 404 by the FCA are subject to a formal public consultation before a scheme is put in place. The FCA also publishes a policy statement explaining its decision and the rationale for the provisions in any proposed scheme. That consultation also includes any decision to appoint a competent person, and the scope of the competent person's responsibilities, which are documented in the policy statement. Finally, it is right that any scheme is monitored and assessed, to ensure that it has delivered its intended outcomes. Given the importance and impact of consumer redress schemes as good regulatory practice, the FCA would as a matter of course monitor the progress of the scheme as it is implemented, which would include assessing the scheme against its stated objectives.

Introducing a statutory requirement for a process that the FCA already undertakes introduces an additional and unnecessary hurdle. I appreciate that there is a desire to ensure that the regulators are properly accountable to Parliament, and I reassure members of the Committee that such an accountability mechanism already exists. As part of the requirements under FSMA, the FCA must already provide an account of its activity to the Treasury on an annual basis, and that account is shared with Parliament.

I regret that I have spoken for some time, but this is an important set of questions, and some more will come up later this afternoon. I hope I have satisfied the Committee, and therefore I ask the right hon. Member for Wolverhampton South East to withdraw the new clause.

Mr McFadden: I want to press new clause 6 to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 8.

Division No. 11]

AYES

Creasy, Stella
Flynn, Stephen
McFadden, rh Mr Pat
Oppong-Asare, Abena
Smith, Jeff
Thewliss, Alison

NOES

Baldwin, Harriett
Davies, Gareth
Glen, John
Jones, Andrew
Marson, Julie
Millar, Robin
Rutley, David
Williams, Craig

Question accordingly negatived.

Ordered, That further consideration be now adjourned. —*(David Rutley.)*

1.9 pm

Adjourned till this day at Two o'clock.