

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

# FINANCIAL SERVICES AND MARKETS BILL

*Seventh Sitting*

*Tuesday 1 November 2022*

*(Morning)*

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CLAUSES 45 AND 46 agreed to.  
SCHEDULE 7 agreed to.  
CLAUSE 47 agreed to.  
SCHEDULE 8 agreed to.  
CLAUSE 48 agreed to.  
SCHEDULE 9 agreed to.  
CLAUSE 49 agreed to.  
SCHEDULE 10 agreed to.  
CLAUSE 50 agreed to.  
SCHEDULE 11 agreed to, with amendments.  
CLAUSE 51 agreed to.  
SCHEDULES 12 AND 13 agreed to, one with amendments.  
CLAUSES 52 TO 59 agreed to.  
Adjourned till this day at Two o'clock.

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**not later than**

**Saturday 5 November 2022**

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**The Committee consisted of the following Members:**

*Chairs:* † MR VIRENDRA SHARMA, DAME MARIA MILLER

- |  |   |
|--|---|
| † Bacon, Gareth ( <i>Orpington</i> ) (Con)                       | † Hardy, Emma ( <i>Kingston upon Hull West and Hessle</i> ) (Lab) |
| † Bailey, Shaun ( <i>West Bromwich West</i> ) (Con)              | † Hart, Sally-Ann ( <i>Hastings and Rye</i> ) (Con)               |
| † Baldwin, Harriett ( <i>West Worcestershire</i> ) (Con)         | † McDonagh, Siobhain ( <i>Mitcham and Morden</i> ) (Lab)          |
| † Davies, Gareth ( <i>Grantham and Stamford</i> ) (Con)          | † Mak, Alan ( <i>Havant</i> ) (Con)                               |
| † Docherty-Hughes, Martin ( <i>West Dunbartonshire</i> ) (SNP)   | † Morrissey, Joy ( <i>Beaconsfield</i> ) (Con)                    |
| † Eagle, Dame Angela ( <i>Wallasey</i> ) (Lab)                   | † Siddiq, Tulip ( <i>Hampstead and Kilburn</i> ) (Lab)            |
| Grant, Peter ( <i>Glenrothes</i> ) (SNP)                         | † Tracey, Craig ( <i>North Warwickshire</i> ) (Con)               |
| † Griffith, Andrew ( <i>Economic Secretary to the Treasury</i> ) | † Twist, Liz ( <i>Blaydon</i> ) (Lab)                             |
| † Hammond, Stephen ( <i>Wimbledon</i> ) (Con)                    | Bradley Albrow, Simon Armitage, <i>Committee Clerks</i>           |
|  | † <b>attended the Committee</b>                                   |

## Public Bill Committee

*Tuesday 1 November 2022*

*(Morning)*

[MR VIRENDRA SHARMA *in the Chair*]

### Financial Services and Markets Bill

*Clause 45 ordered to stand part of the Bill.*

#### Clause 46

##### PAYMENT SYSTEMS REGULATOR

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

9.26 am

**The Chair:** With this it will be convenient to discuss that schedule 7 be the Seventh schedule to the Bill.

**The Economic Secretary to the Treasury (Andrew Griffith):** Good morning, Mr Sharma. It is a pleasure to serve under your chairmanship.

If it pleases the Committee, I would like to draw the Committee's attention to a letter that I have written to you, Mr Sharma, and to the interim Chair of the Treasury Committee. I had previously undertaken that it was my intention to table for the consideration of the Committee some draft wording on a public interest intervention power. As a result of the new Prime Minister wishing to understand what is an important matter in more detail, such that consideration can be given to points that have been made and to whether the proposed wording is the right wording, I regret that it will not be possible for us to table a proposal at this stage. There will be further consideration of the matter on Report and at other stages, and my commitment to write to the Treasury Committee, as well as to members of this Committee, as soon as we have draft wording for Members' consideration, stands. I give that commitment to the hon. Member for Hampstead and Kilburn as well.

The clause introduces schedule 7, which sets out corresponding or similar provisions to those introduced for the Financial Conduct Authority and the Prudential Regulation Authority in chapter 3 of the Bill, relating to the accountability of the payment systems regulator. As the Committee is aware, the Bill repeals retained EU law pertaining to financial services. That means that the regulators, including the Payment Systems Regulator, will generally be responsible for setting the direct regulatory requirements for supervised entities where those were previously contained in retained EU law.

As the Committee has already discussed in some detail, it is important that that increase in responsibility for the regulators is balanced with clear accountability, appropriate democratic input and transparent oversight. It is also important that the accountability measures are applied consistently across the regulators. Schedule 7 therefore makes provisions corresponding or similar to those in chapter 3 in a way that is relevant to and appropriate for the PSR.

The accountability provisions are applied to the PSR by amending the Financial Services (Banking Reform) Act 2013, which is the domestic legislation governing the PSR. The key distinction is that because the PSR

makes rules via powers of direction, as opposed to having the rulebook like the FCA, the accountability requirements on rule making apply where the PSR imposes a generally applicable requirement. Those are the PSR's equivalent for rule making. Overall, the provisions in the schedule apply the accountability measures in a relevant and appropriate way to the PSR's legislative framework and regulatory remit. This will ensure consistency in the application of the accountability provisions across the financial services regulators.

**Tulip Siddiq (Hampstead and Kilburn) (Lab):** It is a pleasure to serve under your chairmanship, Mr Sharma. I have just one question for the Minister. How does he foresee the Payment Systems Regulator's new sustainable growth principles taking account of the UK's net zero emissions target? How will that balance work in practice? Will the regulator be required to report against its performance?

**Andrew Griffith:** In substance, the Payment Systems Regulator, in the same way as the FCA, the Bank and the PRA, will have the target as one of its principles. It will be for the PSR to decide how it reports against that. These are ultimately decisions for the regulators themselves to put into practice. To the extent that I have more information at this stage, I will write to the hon. Lady with any clarity I can provide.

*Question put and agreed to.*

*Clause 46 accordingly ordered to stand part of the Bill.*

*Schedule 7 agreed to.*

#### Clause 47

##### CASH ACCESS SERVICES

**Martin Docherty-Hughes (West Dunbartonshire) (SNP):** I beg to move amendment 40, in clause 47, page 68, line 9, after "of" insert "free of charge".

*This amendment makes reference to the provision of free of charge cash access services in Schedule 8.*

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

Clause stand part.

Amendment 41, in schedule 8, page 150, line 27, after "service")" insert

"free of charge or on the payment of a fee".

*This amendment changes the definition of cash deposit services to include both those which are free of charge and which require the payment of a fee.*

Amendment 42, in schedule 8, page 150, line 29, after "service")" insert

"free of charge or on the payment of a fee".

*This amendment changes the definition of cash withdrawal services to include both those which are free of charge and which require the payment of a fee.*

Amendment 16, in schedule 8, page 151, line 36, after "concerning" insert

"both free of charge and paid access".

Amendment 17, in schedule 8, page 154, line 12, after "appropriate" insert

"and must include the provision of free of charge cash access services".

Amendment 18, in schedule 8, page 154, line 18, leave out from "is" to the end of line 22 and insert "—

(a) an absence of free of charge cash access services in a locality in a part of the United Kingdom, or

- (b) a circumstance which limits the ability of persons in any locality in a part of the United Kingdom to—
- (i) withdraw cash from a relevant current account, or
  - (ii) place cash on a relevant current account.”

**New clause 10—Access to cash: Guaranteed minimum provision—**

“(1) The Treasury must, by regulations, make provision to guarantee a minimum level of access to free of charge cash access services for consumers across the United Kingdom.

(2) The minimum level of access referred to in subsection (1) must be included in the regulations.

(3) Regulations under this section shall be made by statutory instrument, and may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

**New clause 11—Duty to collect data on cash acceptance—**

“(1) The FCA must monitor, collect and publish data in relation to levels of cash acceptance amongst retailers and service providers within the United Kingdom.

(2) The FCA must publish a report, as soon as practicable after the end of—

- (a) the period of 12 months beginning with the day on which this Act is passed, and
- (b) every subsequent 12-month period,

on levels of cash acceptance amongst retailers and service providers within the United Kingdom.

(3) The FCA can, by written notice, require a retailer or service provider to provide to the FCA information that it may reasonably require for the purposes of exercising its duties under subsections (1) and (2).”

**New clause 12—Access to cash: Guaranteed minimum provision for small businesses—**

“(1) The Treasury must, by regulations, make provision to guarantee a minimum level of access to free of charge cash access services for small businesses across the United Kingdom.

(2) The minimum level of access referred to in subsection (1) must be included in the regulations.

(3) Regulations under this section shall be made by statutory instrument, and may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

**Martin Docherty-Hughes:** It is good to see you in the Chair, Mr Sharma, and other hon. Members here today. It is a pity that my hon. Friend the Member for Glenrothes cannot be with us, as he has played a large part in constructing these amendments. I know that other hon. Members will want to participate in a debate on free-of-charge access to cash. I look forward to hearing what they have to say. At the moment, depending on what the Minister has to say, it is my intention to press the amendment to a vote, but I will listen to the Minister’s comments.

It is important to give some examples about the reduction in free access to cash. People sometimes wonder where the constituency of West Dunbartonshire is. We are bound by Glasgow to our east, where we become an urban element of the west of Scotland. We move further west through Clydebank, into Dumbarton and through the Vale of Leven, becoming suburban and then semi-rural, to the base of Loch Lomond itself. The community has a diverse demographic, with a range of deprivation that also impacts on people’s need to access physical cash.

In the last four years in West Dunbartonshire—I am sure this experience is mirrored not only in Scotland but the rest of these islands—we have seen a drop of 27% in access to ATMs, or automated teller machines. That is

three ATMs, coupled with closures of local bank branches. We are a population of more than 90,000, but we seem to have only three or four bank branches left, which is extraordinary. My constituents face being forced to travel across a range of areas, including sometimes into the city of Glasgow, to access cash. My hon. Friend the Member for Glenrothes and I think it is vital to protect our constituents and the constituents of all other Members, too, in making sure that they have access to free-of-charge cash, notably for the most disadvantaged groups and the elderly.

Let me declare a non-pecuniary interest as the chair of the all-party parliamentary group on Estonia. Estonia is usually used as an example of what a digital state should be. After the fall of the Soviet Union it picked itself up and ran with a full digital agenda. One of its biggest learnings was that no one should be left behind in the race to digitalisation, critically in relation to access to cash. For the Estonian Government, and the Estonian Parliament, making sure that any financial system is not only fit for purpose in the digital age but that it takes everyone with it, including access to services and free access to cash, was their big learning curve. They believed that they failed in that process to begin with.

I hope that, when reflecting on the amendment, the Government realise that there is a huge opportunity to maintain access to cash for a range of reasons. We can talk about our constituents, and predominantly those who are elderly or from disadvantaged groups who use cash on a more regular basis. We can also talk about small and medium-sized businesses, a lot of which have moved to digital transactions. When Members go to a small shop in their own constituencies, they will notice that a lot of transactions have moved to digital due to the pandemic, but shops still have a substantial amount of cash that comes through their doors. One of the big problems that shops also have—not just free access to cash for those consuming their products—is depositing their takings at the end of the day. They are finding that very difficult as well. Businesses rely on consumers who use cash, especially in disadvantaged communities.

I am mindful of what the NM Group said in its submission:

“Cash remains an important form of payment for millions across the UK, particularly during times of economic hardship.”

The narrative of the cost of living crisis is used across the House, so there is clearly an agreement that people are facing economic hardship and that access to cash during that time is critical. That is why we think amendment 40 is important, as are the other amendments in this group.

We should also note that the payment method with the lowest economic friction, providing businesses and members of the public with a crucially important alternative, is cash. It is an important way for people to manage their finances, especially those in a disadvantaged group or those who are elderly who do not use digital money. I also note that the figures published by LINK, UK Finance and the Post Office show that around £10 billion in cash is withdrawn each month. That is £120 billion per annum in physical cash from ATMs, or from bank counters and post offices. The volume of withdrawals from the LINK system alone equates to about two withdrawals per month for each adult member of the UK population.

[*Martin Docherty-Hughes*]

To bring my thoughts to a conclusion, we need to also be mindful of some of the infrastructure. UK consumers can access cash from over 55,000 ATMs, 11,500 post offices and certain bank branches—if they are not closing down in our local communities. The number of post offices is actually shrinking; there are no longer two or three post offices in a community—there is maybe only one. Over 90% of cash withdrawals take place at actual ATMs. The critical issue around free cash deposit and withdrawal services within the amendment is extremely important.

The access to cash review in 2019 noted that we cannot sleepwalk into a cashless society. That reflects back to what I was saying about the Estonian learning about digital infrastructure: it can leave a substantial number of people behind. That was the reality for Estonia. Cash continues to be important. Contactless payments and online banking can make it easy for some people to live entirely cash-free. However, given the volumes of cash in society, its usage remains extremely high. That reminds us that we do not live in a cashless society. The LINK network still handles around 1.6 billion transactions a month—that was the average in 2021. On average, adults still withdrew over £1,500 a year. During a global pandemic, cash was still being physically used. It is important to listen to the Minister and the Government's view on it, although it is my intention to press the amendment to a vote. I look forward to hearing what others say.

**Shaun Bailey** (West Bromwich West) (Con): It is a pleasure to see you in the Chair, Mr Sharma—

**Siobhain McDonagh** (Mitcham and Morden) (Lab): I apologise to the hon. Member; I am getting my procedure a bit mixed up, Mr Sharma, so I wonder whether you could clarify something for me. I have amendments 16, 17 and 18, on the issue of free access to cash. When will it be convenient for me to come in?

**The Chair:** They are in this group, so you may speak to them in this debate.

**Shaun Bailey:** Thank you, Mr Sharma. I do not want to add too much to what the hon. Member for West Dunbartonshire has said. He has articulated well the reasons why the original clause and his amendments are vital to our communities. The stark reality is that cash is still an important part of our local economic infrastructure, and more so for my communities, where we have seen two bank closures in the last 18 months. Many have had free access to cash taken from them. That is compounded by other infrastructure challenges, such as the lack of public transport and the inability to access free cash services elsewhere.

The amendments tabled by the hon. Member for West Dunbartonshire are interesting and strike a balance in seeking to ensure that our communities can access a vital service, mainly cash. I listened with interest to him explaining the rationale behind his amendments, because I think we agree. We have to remember who these measures are ultimately targeted at. I often think of people with vulnerabilities who utilise cash as part of their budgeting. They use it every day, and for them it is a vital part of being able to continue to sustain themselves.

Although the technological revolution over the last few years in particular might be great for some, for others it is not. For the communities that I represent and the areas where people are really trying to get by, cash plays a vital role in ensuring that people can function and manage their finances and their affairs. It is therefore vital that we have a strategy in place.

The amendments proposed by the hon. Gentleman, particularly the element of keeping the service free of charge, is important, particularly for communities like mine. We all talk about acute pockets of deprivation, but I remind the Committee that I represent the fourth most deprived ward in the west midlands. For many people, paying for ATMs is simply unacceptable. It takes away from them a vital part of the means they need to subsist and survive. Ensuring that we have a strategy to keep access to cash free for those who rely on it every day is vital. If we do not, we create a cycle whereby, because people have to pay out to access the means by which they survive, they use less and less of their income.

At a time when we are dealing with an acute cost of living crisis and people's incomes are stretched, it is vital that the main source that they can use to survive is not tagged with a condition that makes it harder for them to access it. I agree with the philosophy, so to speak, behind the hon. Gentleman's amendments. This is about enabling people to just survive and do the basics that they need to do. It is as simple as that.

I think of a constituent who came to my constituency office the other week. She could not access an ATM and was absolutely distraught. Her bank branch had just been closed and she did not know where to go. She was distraught and we had to help her out. That is at the forefront of my mind when I think of these amendments and what the Government are trying to achieve through their policy and strategy documents.

I ask my hon. Friend the Minister—I am afraid that he has had a bit of a shopping list from me, which I know his officials will have noted down—to ensure that cash is kept at the forefront of the Treasury's thinking. I appreciate what the clauses are meant to achieve, but I hope that the Minister will take note of the intention behind the amendments, even if the Government decide not to support them, and ensure that the issue is brought to the forefront.

9.45 am

For many of my constituents, this is about how they survive, and our constituents are ultimately the people whom we are here to serve. The Minister and I have had conversations about this, so I know that he is aware, but it is particularly vital that our constituents can survive at the moment. One of the ways in which we can ensure that is by not hampering them in their basic means of survival by tagging them with a condition or charge. Will the Minister consider that?

I agree with the basis for and philosophy behind the amendments. I hope that my hon. Friend the Minister and the hon. Member for West Dunbartonshire will continue the dialogue that appears to have started today. We have some important issues to address in this part of the Bill.

**Siobhain McDonagh:** It is a wonderful moment when there is unity on both sides of the Committee. SNP and Conservative Members, as well as—I hope—my Labour

colleagues, are coming together to ask the Government not just for access to cash, but for free access to cash. I believe that much of the Bill arises as a direct result of Members of Parliament doing our constituency work and understanding our constituents' concerns.

**Dame Angela Eagle** (Wallasey) (Lab): My hon. Friend's amendments are an extremely important part of the debate, and I hope that the Government accept them. I should point out that when I sat on the Treasury Committee several iterations ago, we held an inquiry about free access to cash. We got agreement that all machines that charge for withdrawals should say so up front rather than right at the end. Although that transformed some of the problems, we are now discussing access to cash itself. It is funny how these things evolve but the issues remain the same.

**Siobhain McDonagh**: I thank my hon. Friend, who I understand is currently serving as the interim Chair of the Treasury Committee.

**Dame Angela Eagle**: For at least another week!

**Siobhain McDonagh**: My amendments 16, 17 and 18, together with new clauses 10, 11 and 12, address access to free cash, which is indisputably important in our society. Ten per cent. of UK adults—5.4 million people—continue to rely on cash to a great or very great or extent in their daily lives. One in five people says that they would struggle to cope in a cashless society, and that struggle would disproportionately affect those on lower incomes, the elderly and people with physical or mental health difficulties.

Without Government intervention, we are losing free access to cash in our society. In my constituency, the number of free-to-use ATMs has declined by 36% in the last five years, while the number of pay-to-use ATMs has increased by an extraordinary 22%—there is money to be made somewhere. The problem is not confined to Mitcham and Morden: since 2015, the UK has lost more than half its branch network—5,003 branches—at a terrifying rate of 54 branches each and every month.

Through my amendments, I wish to draw the Committee's attention to the notable decline in the provision of free-to-use ATMs. Since August 2018, the UK has lost 12,599 free-to-use ATMs—a decrease of nearly 24%. Meanwhile, almost a quarter of ATMs now charge people for access to their own cash. It is no wonder that more than half of consumers experienced one or more issues accessing cash at a bank branch in the past year.

Who are the losers in this cashless society? The access to cash review unsurprisingly revealed that those earning less than £10,000 per year were 14 times more likely to be dependent on cash than those earning more than £30,000 per year, and yet they are the residents of the areas where free access to cash is hard to come by.

Take Pollards Hill in my constituency, where a ridiculous clause in the lease prevents the new Co-op from opening a free-to-use ATM because of two paid-for cash machines further down the row of shops. Residents are taking out small sums of money in order to control their budgets, some of them at just £10 a time, but they are charged £2 to take that out—a 20% charge for every single payment. They literally have to pay for access to their

cash. Surely the legislation must be tightened to avoid imposing additional costs such as that on the most hard-pressed.

I believe that the need for access to cash is growing. Age UK highlights that one in five older people still relies on cash for everyday spending. The cost of living crisis has seen households reliant on cash counting out the pennies to ensure that they can make ends meet—it is no wonder that in August, the Post Office handled its highest total of cash ever. The evidence is overwhelming and I believe that there should be a societal duty on the Government to ensure that the most vulnerable people in our society have free access to cash and are not left behind.

It is not just me who has such concerns. The hon. Member for Vale of Clwyd (Dr Davies), now the Under-Secretary of State for Wales, stated on Second Reading that he hoped the Government would commit to protecting free cash withdrawals and deposits, presumably in light of Prestatyn losing TSB, Barclays, HSBC, NatWest and Royal Bank of Scotland in recent years, initially leaving the town's high street without a single bank or cash machine despite being a major regional shopping centre.

On 19 April, the hon. Member for Beaconsfield tweeted after the announcement of bank branch closures in her constituency that she would take up the issue in Westminster, describing crisis talks with the banks on access to cash on high streets everywhere as essential. I am sure she agrees that this is the moment to vote where her voice was.

The hon. Member for Havant has seen at first hand how damaging the removal of access-to-cash provision has been for his most vulnerable constituents, having launched campaigns against TSB, NatWest, Barclays and HSBC in recent years, and having raised his concerns with HSBC about the potential impact on the elderly, who might not be able to access online banking and are reliant on face-to-face services. The hon. Member for Orpington has seen Nationwide, Santander and Barclays close in Petts Wood. He pledged to hold the latter to account in support of those residents who do not use mobile or online banking. Well done to that Member!

The hon. Member for Grantham and Stamford, in advance of the closure of the HSBC branch in Bourne, shared concerns with his constituents about the impact on his elderly constituents whom he said relied on the bank as a vital service in the town centre.

**Gareth Davies** (Grantham and Stamford) (Con): The hon. Lady is making a fantastic speech—let me say that straight out of the gate—but may I clarify that her proposed access-to-cash solution is for the Treasury to make an intervention on the regulator?

**Siobhain McDonagh**: I do not believe that the regulator, the FCA, will force through free access to cash unless we legislate for that. As Members, we are responsible for that. I suppose I am trying to say that hon. Members are doing their job excellently by highlighting concerns in their constituencies. Even though we have been through a very rough time in politics and a lot of our constituents are unhappy about the turbulent times we have entered, many of them still have faith in democracy, party politics and our system because Members do that sort of work. I believe that we need to follow through when we are given the power to do so.

[*Siobhain McDonagh*]

I have more. The point was even more strongly expressed by the hon. Member for West Bromwich West, who made a powerful speech. Following HSBC's decision to close its branch in Wednesbury, he gave this message to his constituents:

"The argument of go to West Brom is not good enough! I am determined to fight this"—

good on him!

The hon. Member for North Warwickshire described the impact on local residents as "obvious" when the Lloyds Bank branch closed, leaving Coleshill High Street without a bank branch. As an MP for a rural constituency, the hon. Member for Hastings and Rye detailed her concerns to our witnesses last week about her constituency being able to access cash free, and about the distance her residents would have to travel otherwise.

I do not doubt that my constituency neighbour, the hon. Member for Wimbledon, shares my concern about the loss of cash machines and bank branches in Morden town centre, which we share. One of the only remaining free-to-use ATMs is hidden in a Cashino—an arcade. That is extraordinary.

Government Members need not worry: the new Chancellor shares their view. He was pictured in the *Alton Herald* just last November celebrating the arrival of a new free-to-use cash machine in his constituency. I say to the Minister: do not worry. If these amendments pass, the Chancellor is right behind you.

Given what appears to be an overwhelming consensus on the issue, I hope Members on both sides of the Committee acknowledge that the Bill needs to be amended to ensure not only that there is access to cash but that there is free access to cash. They will be lauded in articles in their local newspapers and posts on Twitter and their social media for passing these amendments.

**Emma Hardy:** It is an absolute pleasure to follow my hon. Friend the Member for Mitcham and Morden, who is just awesome. Is awesome a parliamentary word? It should be. On a personal level, let me say how much I enjoy being on the Treasury Committee with such incredible Labour women. It is brilliant—inspiring.

To follow on from a couple of points that my hon. Friend made, I hope the Minister's response will touch on the baseline geographical distances between free cash points. It frustrates me immensely that in one of the poorest estates in my constituency, the ATM charges £1.50 every time people use it. We would like some details about the geographical distances between the places where people can access free cash.

We should also look at why businesses do not take cash. As my hon. Friend said during the evidence sessions, it is often because there is nowhere for them to deposit it. If we are to make access to cash free, which I completely support, we should also help businesses to take cash. There is no point having free cash if it cannot be used. Bank or other branches should accept cash, and we should look at the geographical distances.

I got a bit frustrated when banks were closing branches in my constituency, because they said, "Well, the other one is only one-point-however-many miles away, so it's fine." I said, "It is not easy for people to get to." There is sometimes an assumption that everyone is able to drive

and has the mobility to go around and find a free cash machine, but that is not always possible. Can we look at geographical distances, at businesses accepting cash and at ensuring branches accept cash so that businesses can pay it in? My hon. Friend made a powerful speech on cash access and the principle that people's access to their own money should be free.

10 am

**Tulip Siddiq:** I will speak to clause 47 and the various amendments tabled to it by my hon. Friend the Member for Mitcham and Morden and the hon. Member for Glenrothes, who cannot be here because of a personal commitment. I pay tribute to him and all the work he has done so far. While we sympathise with the principle behind amendments 41 and 42, we believe that the amendments tabled by my hon. Friend the Member for Mitcham and Morden would better achieve free cash access. Before I continue, I pay tribute to her for all her work on financial inclusion. She is not stopping her fight for justice, and she talked about this being a societal duty. She also has a ten-minute rule Bill that seeks to persuade the Government to give free internet access to children on free school meals. I pay tribute to her work.

We are delighted that after years of delay, the Government have brought forward some legislation to protect access to cash. The industry, particularly the major banks, should be applauded for coming together to help protect cash services at the end of last year, which put this legislation on a statutory footing. However, the delay in bringing forward the Bill has cut off whole sections of society from our economy, including millions of the most vulnerable, the poorest and older people, as my hon. Friend the Member for Mitcham and Morden pointed out. It has also damaged smaller businesses that rely on cash.

On top of this, almost 6,000 bank branches have closed since 2015 on this Government's watch, and the Bill does nothing to protect essential face-to-face banking services, which the most vulnerable in our society depend on for financial advice and support. I know we are discussing new clauses 4 and 5 later, which will protect access to essential in-person banking services, so I will stay focused on cash for now, but I do not feel that we can have this debate without talking about face-to-face banking services, or the lack thereof.

It is inevitable that payment systems will continue to innovate, but a recent report from the RSA that I am sure the Minister is aware of found that 10 million people still depend on cash and that the pandemic, which saw an acceleration in the digitisation of payment systems, has made it increasingly difficult for many of us to pay for the goods and services we need—especially people from a lower socioeconomic background.

The Bill is a welcome step in guaranteeing access to cash, but clause 47 goes nowhere near far enough in ensuring that cash is available for those who depend on it. My hon. Friend the Member for Mitcham and Morden pointed out how so many people in her constituency—where I was born, I am proud to say—still rely on cash, especially free cash. The Bill makes no commitment to protect free access to cash. That is what we are worried about. That is why we support amendments 16, 17 and 18, as well as new clause 10,



which were all tabled by my hon. Friend the Member for Mitcham and Morden. They would provide a guaranteed minimum provision of access to free cash.

Protecting free cash access has never been more important, as I am sure the Minister will agree. Data collected by the Post Office has shown that the use of cash in recent months has increased. As the cost of living crisis deepens, the poorest in society are increasingly turning to cash to manage their budgets on a week-by-week, often day-by-day basis. Data collected by the consumer group Which? found a notable decline in the provision of free-to-use ATMs in recent years.

In July 2022, there were around 12,000 fewer free-to-use ATMs in the UK than there were in August 2018. That is a decrease of nearly 24%. Does the Minister agree that forcing the poorest in society, who are increasingly reliant on cash, to pay for access to cash in the middle of the worst cost of living crisis on record risks further deepening financial exclusion in our country? Is this the kind of society we want to live in?

I am sure the Minister knows of Natalie Ceeney, chair of UK Finance's Cash Action Group. During the Committee's evidence session, she made it absolutely clear that the Government have a societal duty to ensure that the most vulnerable people in the UK have free access to cash.

Which? warned that if these clauses do not make it clear that they will protect free cash withdrawals and deposits, the entire objective of this part of the Bill will be undermined. Which? is right to stress the importance of free cash withdrawals and deposits. That is crucial to securing cash acceptance. There is little point in the most vulnerable having access to cash if they have nowhere to spend it. That is why Labour will support new clause 11, which would place a duty on the FCA to collect data on cash acceptance.

During her oral evidence, Natalie Ceeney also warned that we have to ensure that the Bill

"covers small businesses as well as consumers. Small businesses, typically...pay for their cash access."—[*Official Report, Financial Services and Markets Public Bill Committee*, 19 October 2022; c. 51-52, Q101.]

Increasingly, small business owners also have to travel long distances to deposit. That is a dangerous disincentive for them to accept cash. Natalie Ceeney also pointed to Sweden, where shops have largely stopped taking cash. If the UK wants to avoid a similar outcome, we must ensure that small businesses can deposit cash easily. That is why we will push new clause 12 to a vote. It would guarantee minimum provision of free cash access services for small businesses.

The Minister is likely to respond that we must wait for the Government's access to cash policy statement. If he does, will he confirm when that statement will be published? Does he not agree that, if the Government are truly committed to protecting free access to cash services, there is no reason not to make protections for free access explicit in the Bill?

**Andrew Griffith:** I will speak first to clause 47, before turning to the many amendments and new clauses proposed by hon. Members.

Although the transition towards digital payments brings many opportunities, the Government's view is that cash remains an essential payment mechanism for

many, particularly those in vulnerable groups. I am particularly familiar with the work of Age UK in this respect. Protecting access to cash for those who rely on it is a priority for the Government, and clause 47 delivers on that.

The hon. Member for Mitcham and Morden highlighted not just her own concerns about the issue but, rather thoughtfully, those of all hon. Members, to which I should add mine as well.

**Siobhain McDonagh:** I thank my brilliant researcher, Dan Ashcroft, for finding the great comments of all the Conservative Members. It was harder to find anything from the Minister, so it is good to find out what he believes about free access to cash.

**Andrew Griffith:** As part of the research for this debate, I looked at the prevalence of free-to-use ATMs in the constituencies of members of the Committee. My quite rural constituency is somewhat bereft compared with the embarrassment of riches, surprisingly, in the constituency of the hon. Member for Kingston upon Hull West and Hessle, which has a staggering 120 free-to-use ATMs, reportedly. That puts many of us to shame.

**Emma Hardy:** One hundred and twenty?

**Andrew Griffith:** That was the figure supplied to me; I will happily correct the record if that is not the case.

**Emma Hardy:** I am astounded that there are 120. I would be grateful if the Minister could show us a map of where they are, because I certainly have not found them. What can I say? We like our cash in Hull.

**Andrew Griffith:** Very good.

Until this moment, there has been no substantive legislative framework for access to cash. No regulatory authority has the legislative responsibility or powers to ensure that cash withdrawal and deposit facilities are available for people and businesses to use. We should not underestimate the degree to which the Government are moving on this important issue.

Clause 47 addresses cash access in statute for the first time. It introduces schedule 8, which sets out a legislative framework granting the Financial Conduct Authority responsibility to seek to ensure that there is reasonable provision of cash deposit and withdrawal services across the UK. It also gives the regulator the powers it needs to fulfil that responsibility.

The hon. Member for Wallasey talked about the pioneering work by the Treasury Committee. We should all celebrate this clause; we should celebrate the achievement of this House in significantly moving forward the protection for access to cash. We just need to remember that what we are talking about here is a very small increment—from the statutory protection of access to cash, to the precise terms on which that is agreed. I understand that there may be different views on that, but we should not allow that to detract from the significant advance on access to cash that the Bill represents.

The Treasury will publish a policy statement in due course, and doing that "in due course" is the right thing to do. There will be the right moment to do it—

**Tulip Siddiq:** Will the Minister give way?

**Andrew Griffith:** The hon. Lady is very good at anticipating what I would not say. Perhaps she is going to finish my sentence for me.

**Tulip Siddiq:** Well, we have certainly spent enough time together. “In due course” is very vague, as I am sure the Minister will agree. Can he not give us any sort of timeline? I have not had a straight answer to this question for a few months now—to be fair, I recognise that it was not him in that chair, but his predecessor.

**Andrew Griffith:** I am a big fan of taking one step at a time, and the step in front of us today is to pass clause 47 and put it on the statute book—to make that very significant advance in the statutory protection of access to cash. I look forward to continuing my tenure and engaging with the hon. Lady, and it seems appropriate for us to bring forward the policy statement very rapidly once Royal Assent has been achieved, taking this important topic step by step.

The hon. Member for Kingston upon Hull West and Hessle nodded vigorously at the obligations on the FCA to collect more data. I think that that is absolutely right. One challenge, as cash potentially diminishes over time, is to ensure that we nevertheless have the right and detailed datasets in order to continue to protect our constituents.

**Emma Hardy:** Without wishing to return to a previous debate, one way we could ensure that the FCA collects data is to ensure that it has regard to financial inclusion.

**Andrew Griffith:** The hon. Lady has made that point powerfully, and I assure her—notwithstanding the disappointment that I seem to continue to cause to the hon. Member for Hampstead and Kilburn—that that has lodged very firmly with the Government and is something I would hope we can continue to discuss before Report.

The provisions introduced by clause 47 are vital to support those who continue to use cash. With that, I recommend that the clause stand part of the Bill.

Let me now turn to the amendments. Amendment 40 would change the description of schedule 8 in clause 47 to refer to free-of-charge cash deposit and withdrawal services. Amendments 16 to 18, in the name of the hon. Member for Mitcham and Morden, concern free access to cash. There is a commendable focus on this issue from Members on both sides of the Committee, and we heard the intervention from my hon. Friend the Member for West Bromwich West about his constituents and their vulnerabilities.

The Government do not believe that it is appropriate for legislation itself to stipulate that access to cash must be free. Let me try to explain why, because I understand the consternation of some hon. Members. This very significant step forward having been taken to protect statutory access to cash, the Government are concerned that taking a blanket approach might have unintended consequences and leave us stuck with legislation that is too prescriptive. In turn, that might stifle innovation by industry to support cash access. For example, ensuring the free provision of cash for certain vulnerable consumers

is quite different from ensuring provision for business customers, which could be delivered through different solutions.

The provisions in schedule 8 ensure that legislation provides appropriate flexibility now and in the future. Consistent with a lot of the debate that we have heard about the independence of regulators and the regulatory model being baked into financial services regulation since the Financial Services and Markets Act 2000, the Government believe that the FCA is best placed to deliver a sustainable, agile and evidence-based approach to managing cash over time in order to respond to the needs of people and businesses. The FCA has the flexibility and powers to do that.

10.15 am

As part of the FCA’s responsibility, the regulator will be able to have regard to matters it considers appropriate, which can include the cost to end users. The FCA will need to think about withdrawal and deposit, local and national provision, and the needs of vulnerable individuals and businesses, which may present different considerations. Rather than taking a one-size-fits-all approach, the FCA will continue to undertake analysis to inform its approach. It is currently developing its regulatory approach to access to cash and will issue a formal consultation, which Members will be interested in and to which they will no doubt respond in due course.

Amendments 41 and 42 would amend the definition of cash access services in schedule 8 to include both free-of-charge and pay-to-use deposit and withdrawal services. However, the current definition in schedule 8 is already wide enough to capture both those services, so the amendments are simply not necessary.

Let me turn to new clauses 10 and 12, which would require the Treasury to make regulations to specify a minimum level of provision for free cash access services for consumers and businesses. Again, we feel that the FCA is best placed to ensure that people have access to cash, and the new clauses risk undermining the FCA’s ability to take account of detailed evidence in considerations and to execute its powers to protect access appropriately through time.

Lastly, new clause 11 is designed to place a legislative duty on the FCA to monitor cash acceptance by retailers and equivalent service providers. Although the Government are sympathetic to the intention, we do not view the new clause as appropriate at this stage. Such a duty would extend well beyond the FCA’s remit of regulating the financial services sector, and it could risk placing a disproportionate regulatory burden on many businesses, including small and medium-sized enterprises, which may need to provide transaction information to the FCA for the purpose of monitoring cash acceptance. I consider those to be significant issues with new clause 11.

I will conclude on this important area, on which there is a high degree of consensus on both sides of the Committee. The Bill reflects the priority that the Government place on protecting access to cash for those who need it. Let me reiterate that the provisions are a significant step forward and have never been seen before—in the history of money, I would say, but that probably overstates it—under this regulatory framework. However, it is also important that the Bill allows the

FCA, with the appropriate flexibility, to monitor and respond to trends in cash usage as they develop through time, which is the approach that we take in so many other areas of financial services regulation. As I said, the Government will publish our policy statement in time for the FCA to conduct its role under the statute. For those reasons, I ask hon. Members not to press amendments 40 to 42 and 16 to 18, and new clauses 10 to 12.

**The Chair:** Before I call Martin Docherty-Hughes, I inform the Committee that I will take one vote on amendment 40. There will be no other vote on this group.

**Martin Docherty-Hughes:** Thank you, Mr Sharma.

It was interesting to hear what the Minister and Members on the Government Back Benches had to say—I congratulate the hon. Member for Mitcham and Morden on the litany of exasperation from the Back Benches, which I thought was well played. I was glad to hear the hon. Member for West Bromwich West agree with the vast majority of what I had to say, and I go back to what the Minister said about the statutory protection of cash. If that is the truth, 27% of free ATMs in West Dunbartonshire would not have closed in the past four years.

I am usually minded to push my amendments to a vote. I seek some reassurance from my colleagues on the official Opposition Benches that if I do not push my amendment to a Division, all the amendments in the name of the hon. Member for Mitcham and Morden will be moved. The Clerk may want to give some advice to the Chair on that issue, because I know that if I withdraw my amendment, I can bring it back on Report. I look for some clarification on that issue first.

**The Chair:** The advice is that if you withdraw your amendment, I will take one of the three amendments from the hon. Member for Mitcham and Morden.

**Siobhain McDonagh:** Just to clarify, Chair, will you take 16, 17 or 18, or will you take the whole bunch?

**The Chair:** You choose one of those three, and I will take it if the hon. Gentleman decides not to push his amendment to a Division.

**Martin Docherty-Hughes:** I think I am getting my assurance that one of those amendments will be pressed to a vote by the official Opposition, so in order to make sure that we have a coherent and agreed process, I will not push my amendment to a Division. However, I make it clear to the Government that I have not heard anything today that means that free access to cash will be safeguarded for my constituents, and I will probably bring my amendment back on Report. I look forward to voting with my colleagues in the official Opposition. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Clause 47 ordered to stand part of the Bill.*

## Schedule 8

### CASH ACCESS SERVICES

*Amendment proposed:* 16, in schedule 8, page 151, line 36, after “concerning” insert

“both free of charge and paid access”.—(*Siobhain McDonagh.*)

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 6, Noes 9.

### Division No. 5]

#### AYES

Docherty-Hughes, Martin	McDonagh, Siobhain
Eagle, Dame Angela	Siddiq, Tulip
Hardy, Emma	Twist, Liz

#### NOES

Bacon, Gareth	Hart, Sally-Ann
Bailey, Shaun	Mak, Alan
Davies, Gareth	Morrissey, Joy
Griffith, Andrew	Tracey, Craig
Hammond, Stephen	

*Question accordingly negatived.*

**Siobhain McDonagh:** I beg to move amendment 19, in schedule 8, in page 154, line 12, at end insert—

“(2A) Before making a determination under subsection (2), the FCA must publish how it intends to define and assess the reasonable nature and extent of provision when making the determination.”

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

Amendment 21, in schedule 8, page 154, line 32, at end insert—

“(7) In carrying out its functions for the purposes of section (1) the FCA may put in place arrangements for the purposes of ensuring that members of the public, elected officials, community groups, local authorities, councils, and other local persons the FCA considers may have an interest, can request a review of their local community’s access to cash needs.”

Amendment 20, in schedule 8, page 154, line 32, at end insert—

“(8) Upon making a determination of local deficiency in the course of carrying out its functions under subsections (1) to (7), the FCA must—

- (a) make provision for the publication of this assessment, and
- (b) outline steps to be taken by relevant parties to address such deficiency.”

That schedule 8 be the Eighth schedule to the Bill.

**Siobhain McDonagh:** I rise to support my amendments 19, 20 and 21, which are grounded in transparency and evidence, requiring the Financial Conduct Authority to collect and publish relevant data related to access to cash. Examples include enabling public bodies to request a review of the local community’s access to cash needs or to publish how they intend to define and assess the reasonable nature and extent of provision when meeting a determination of access to cash; making provision for the publication of that assessment; and outlining steps to be taken by relevant parties to address such a deficiency.

[*Siobhain McDonagh*]

Currently, under the voluntary agreements put in place by the Cash Action Group to preserve access to cash, individuals or community groups can request a review of their access to cash where they consider it to be inadequate. Where unmet needs are identified, LINK can recommend the installation of a new cash access point. I must say that it is doing precisely that in my constituency, in Pollards Hill, so I am grateful to LINK and the Cash Action Group for their progress.

The amendments call for a similar ability for individuals or communities to request a review of local cash provision, irrespective of whether baseline geographic distances set in the Treasury's policy statement are met. I argue that that should be enshrined in the Bill to give consumers confidence that their concerns in their local areas will be considered by the regulator. Whether for transparency, fairness or consumer confidence, it is vital that the legislation compels the FCA to publish both the criteria that will apply when determining whether a cash access point is required in a community and the assessment of a local community's access to cash.

I hope that chimes with commitments made by the hon. Member for Vale of Clwyd on Second Reading, when he argued that assessments of the needs of communities should be transparently published and that there should be a formal process of appeal. Surely such an appeal is impossible unless the data is collected, understood and available. I hope that this uncontroversial call will have the support of hon. Members as we seek to strengthen access to cash for communities and individuals up and down the country.

**Tulip Siddiq:** I shall speak to schedule 8 and amendments 19, 20 and 21 together. We recognise that the Bill sets out an important, overarching framework to protect access to cash. However, many critical elements, such as the baseline geographic distances that will apply to withdrawal and deposit facilities and which are factors that the FCA will take into account when assessing a local area's needs with regard to access to cash, will be set out in a policy statement to be published by the Treasury. That makes it impossible for members of this Committee, more widely, Members of Parliament to judge whether the Government's proposals will deliver an adequate level of free access to cash services. That is why the organisation Which? and others have called on the Government to assess the significant gap by setting out, in Committee, the details of the draft policy statement, which will determine the proposed baseline distances between cash facilities.

As my hon. Friend the Member for Mitcham and Morden has said, we also want the Government to set out how local deficiency of free cash access will be assessed by the regulator and how local people can request an FCA review of their communities' access to cash needs. That is why we will be supporting amendments 19, 20 and 21 today. If the Conservative party does not lend its support to the amendments, will the Minister set out how he will ensure that Parliament has adequate opportunity to scrutinise the Government's draft policy statement before the Bill leaves the House of Commons?

**Andrew Griffith:** I shall speak first to amendments 19, 20 and 21, before turning to schedule 8. Amendments 19 and 20 seek to introduce requirements on the FCA in

relation to how it will determine reasonable provision of cash access services and how it will assess and address local deficiencies in provision. I am grateful to the hon. Member for Mitcham and Morden for raising that important issue, and I recognise the strength of feeling expressed by many in the debate on Second Reading and here this morning. I reassure the hon. Member that the Treasury has considered the matter carefully, and will continue to consider it through its approach to a policy statement.

10.30 am

However, regulatory rules will be the key tool by which the FCA regulates cash access, and I draw the attention of the Committee to proposed new section 131V of the Financial Services and Markets Act 2000, which is in schedule 8 and which requires the FCA to consult on how it intends to regulate access to cash when it plans to make rules. I mentioned earlier that the FCA is developing its regulatory approach to access to cash, and it will issue a formal consultation in due course. I know that Members and, indeed, the Treasury Committee will engage with that process and the FCA's future role, so I hope that the Committee understands our reluctance, having taken this substantial step, to continue to rush headlong into more and more statutory provision, which is against the tradition of regulation in this space.

It is hard to hide a cash machine. Cash machines do not appear by stealth in the undergrowth. Therefore, when it comes to regulating access to cash, the FCA does have form on extensively consulting and on putting a great deal of data in the public domain, and hon. Members—carrying out their job of diligently representing their constituents as we have heard today—will continue to have a role to play in surfacing data and exposing points of weakness. I am content that the FCA will diligently listen to that.

**Siobhain McDonagh:** I would suggest to the Minister, though, that the FCA was late to the party over bank branch closures and that the groundswell created by people and by Members of Parliament forced the FCA finally to act. Who believes that individual communities, particularly poorer communities, have the same strong voice as the chief executive of a major high street bank? That is not going to be the case, and we know it is not going to be the case. We also know that unless the guidelines are there, people will not be listened to.

I held a public meeting about the closure of my local Halifax branch, and I could not convince anybody from the Halifax to attend. The idea that we can get these things done by institutionally agreeing that those people will understand the same things we understand, and understand the concerns of those who come to our advice surgeries and the concerns in our constituencies, is also not the case.

**Andrew Griffith:** The hon. Lady makes a powerful point that I will take away, but I perhaps do not entirely share her view of the FCA. It will be interesting to explore that further. However, I should congratulate her, which I omitted to do earlier, on successfully procuring a new LINK ATM for Pollards Hill. If she would like me to do so, I should be delighted to come to witness her opening this important facility for her constituents.

Let me turn to amendment 21. Following the Government committing themselves to legislating, industry has, in parallel, established voluntary arrangements to co-ordinate its response to provision of cash access—that includes the process for LINK, of which the hon. Lady has availed herself; LINK operates the UK’s largest ATM network—to assess a community’s needs in the event of closure of a core cash service or a request made by a local community, or indeed by a diligent Member of Parliament representing their constituents.

The Bill will provide the FCA with powers over operators of cash access co-ordination agreements such as those operated by LINK, so it provides a legislative safety net. However, members of the Committee will recognise that no decisions can be made in respect of designating any firms until we get the Bill on the statute book—the important work in which we are engaged today.

More widely, the Bill will require the FCA to use its powers to seek to ensure reasonable provision of cash access services—we are giving the FCA the corpus of work to do that. The Bill will allow the FCA to make rules or issue a direction requiring designated entities to establish a process to allow cash users to request reviews, should the regulator consider that appropriate. I understand the point made by the hon. Member for Mitcham and Morden about the conduct to date, but I would respectfully say that we are also giving the FCA very significant powers and putting duties upon it. The Treasury, the Select Committee and Parliament itself will continue to scrutinise those duties, and ensure that they are being fulfilled diligently. For that reason, I ask her not to press amendments 19, 20 and 21 to a vote, following a good debate on them.

Briefly, schedule 8 has attracted considerable interest from Members. Part 1 of the schedule inserts a new part 8B, titled “Cash access services”, into FSMA 2000. That introduces the legislative framework for access to cash and establishes the FCA as the responsible regulator. The schedule places a new statutory responsibility on the FCA to exercise the powers granted to it for the purpose of seeking to ensure that there is reasonable provision of cash access services in the UK. The FCA is then responsible for determining what it considers to be reasonable provision—I understand that some hon. Members would like to go further and be more prescriptive on that—while having regard to the policy statement, which will be issued in due course and at the appropriate moment by the Treasury, and any local deficiencies in the provision of cash access that the regulator has identified, the impacts of which it considers significant.

The FCA may also have regard to other matters that it considers appropriate. The FCA has already developed extensive monitoring of the coverage of cash access, and has undertaken research on the use of cash to inform its approach. In terms of the entities that will be subject to FCA oversight, the Government believe that it is right that the largest retail banks and building societies are held accountable for ensuring that their customers or members can continue to access cash services. The schedule therefore gives the Treasury powers to determine which banks and building societies—*[Interruption.]* I can see from the expression of the hon. Member for Mitcham and Morden that Halifax may well be auditioning as a candidate. It would be wrong

for me to prejudge that list, but I imagine that hon. Members have lots of potential candidates to put to the Treasury.

The schedule gives the Treasury powers to determine who they should bring within the scope of FCA oversight through the designation regime. Furthermore, the Treasury will be able to designate operators of cash access co-ordination arrangements for FCA oversight. In order for it to fulfil its new role effectively, the Bill grants the FCA the ability to make rules, issue directions and impose disciplinary measures, including financial penalties upon any of the organisations designated by the Treasury. The new legislative framework will be an effective, proportionate and strong way to ensure that there is reasonable provision of cash access across the UK in the future. I therefore recommend that the schedule stand part of the Bill.

**Siobhain McDonagh:** We will come back to the amendment, and those with which it is grouped, but for now I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Schedule 8 agreed to.*

#### Clause 48

##### WHOLESALE CASH DISTRIBUTION

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

**The Chair:** With this it will be convenient to discuss that schedule 9 be the Ninth schedule to the Bill.

**Andrew Griffith:** In addition to ensuring reasonable provision of cash access services in the UK, it is vital that we have an effective, resilient and sustainable wholesale cash system to support continued access to cash.

The UK’s wholesale cash infrastructure is a system of cash centres that sort, store and distribute banknotes and coins. A decline in the transactional use of cash has put pressure on the business models of the existing wholesale cash networks. Over time, the industry is expected to transition to a smaller overall network.

Clause 48 and schedule 9 contain provisions to give new powers to the Bank of England to oversee the wholesale cash distribution industry by creating a two-level regime. First, it gives the Bank oversight over, and the ability to regulate, the market activities of the wholesale cash industry. That will ensure the effectiveness, sustainability, and resilience of the system. Secondly, it gives the Bank the ability to prudentially regulate a systemic entity in the market, should one form in the future, to manage risks to financial stability.

Schedule 9 enables the Treasury to make a wholesale cash oversight order, which specifies an entity as a recognised entity. That will set out whether an entity is recognised as having market significance only, or systemic significance. If a firm has market significance, it will be subject to the market oversight regime. If it is systemically significant, it will be subject to both the market oversight regime and the prudential regime.

The Treasury does not currently consider any entity to be systemic, but the provisions will ensure that the Treasury and the Bank can respond effectively to future

[Andrew Griffith]

changes in the market to manage risks to financial stability. It is expected that the industry will transition to a smaller overall network, potentially with fewer operators, in the coming years.

The powers given to the Bank under both parts include the ability to publish principles and codes of practice, gather information, give directions as required, make inspections and enforce the regime. Under the regime, the Bank can also collect fees, which must relate to a scale of fees approved by the Treasury. The Bank will seek to exercise its powers proportionately.

Schedule 9 also requires the Bank of England to prepare and publish a policy statement on its regulatory approach before exercising its powers under the legislation. The Bank will launch a consultation on that policy statement shortly. Once the regime is operational, the Bank is required to provide an annual report on the regime to the Treasury, which must be laid before Parliament.

In summary, clause 48 and schedule 9 are necessary to ensure that the wholesale cash industry remains effective, resilient and sustainable. The measures form part of the Government's action to support the continued access to cash. I therefore recommend that clause 48 and schedule 9 stand part of the Bill.

**Tulip Siddiq:** We welcome clause 48, but I have two questions for the Minister. First, how will Parliament and industry be consulted on the scale of the fees placed on businesses by the Bank to cover the operation of the scheme, and on the penalties for non-compliance? Clause 48, as drafted, allows the Treasury to designate an entity as being subject to the Bank's new prudential regimes for the wholesale cash industry, but how will the Government ensure that the Bank is adequately consulted on additions to the regime?

**Andrew Griffith:** The answer is that, in the normal way, the measures will be laid before Parliament. If there is any extra detail with which I can furnish the hon. Lady, I will write to her.

*Question put and agreed to.*

*Clause 48 accordingly ordered to stand part of the Bill.*

*Schedule 9 agreed to.*

#### Clause 49

##### RECOGNISED BODIES: SENIOR MANAGERS AND CERTIFICATION

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

10.45 am

**The Chair:** With this it will be convenient to discuss that schedule 10 be the Tenth schedule to the Bill.

**Andrew Griffith:** The clause introduces schedule 10, which provides for the new senior managers and certification regime—SMCR—for financial market infrastructures. The existing SMCR was first introduced following the 2008 financial crisis to strengthen governance in financial services firms and to promote high standards of conduct among all staff. Today, the regime applies to most authorised firms across the financial services sector,

including banks and insurers; however, it does not apply to firms that are regulated outside the main FSMA authorisation framework. The clause addresses that by allowing a new SMCR to be created for certain types of financial market infrastructure. It will help to bring governance requirements for such systemically important firms in line with the majority of the financial services sector.

Schedule 10 provides for the new regime by inserting proposed new chapter 2A into part 18 of FSMA 2000. That will allow for an SMCR to be applied to central counterparties and central securities depositories through the negative resolution procedure. The schedule also allows for the regime to be extended in future to recognised investment exchanges and credit rating agencies, should that be appropriate. The power can be exercised by the Treasury through the affirmative resolution procedure in respect of credit ratings agencies, and through the negative procedure in respect of recognised investment exchanges. The Government will undertake consultation with relevant parties before deciding on whether the regime should be extended to such entities.

The key features of the new regime mirror those of the existing regime: a senior managers regime, a certification regime and conduct rules for all employees. The certification regime applies to employees whose roles do not have senior management functions but could cause significant harm to the firm or its users. Those roles must be performed only by employees who have been certified by the firm as being fit and proper to perform the roles. The regime will also allow regulators to make conduct rules for all employees of the firms.

Schedule 10 also provides supervisory and disciplinary powers for the Bank and the FCA, including the power to impose financial penalties and to take action against misconduct. The Bank and the FCA will be able to make prohibition orders such that any individual they do not consider to be fit and proper can be banned from performing a function at one of those types of entity, or at any authorised or exempt financial services firm.

The new regime will be an effective and proportionate way to strengthen governance arrangements and to promote high standards of conduct among all staff. I therefore recommend that the clause and schedule 10 stand part of the Bill.

*Question put and agreed to.*

*Clause 49 accordingly ordered to stand part of the Bill.*

*Schedule 10 agreed to.*

#### Clause 50

##### CENTRAL COUNTERPARTIES IN FINANCIAL DIFFICULTIES

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

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

Government amendments 9, 24 to 28, 10, 29, 11 and 12, 30, 13 to 15, and 31.

That schedule 11 be the Eleventh schedule to the Bill.

**Andrew Griffith:** The clause introduces schedule 11, which expands the existing resolution regime for central counterparties, or CCPs. CCPs provide clearing services for large volumes of financial trading activity and are systemically important pieces of market infrastructure.

Resolution is the framework for managing the failure of systemic financial institutions. It provides the Bank of England, the UK's resolution authority, with the tools required to manage the failure of a financial firm safely. If a CCP got into difficulty and could not continue to provide its clearing services, there could be serious consequences for financial markets, affecting financial stability and potential risks to public funds

Although the UK has an existing resolution regime for CCPs, introduced in 2014, a fuller and stronger set of powers will enable the Bank to take faster and more extensive action than it can now. Schedule 11 will therefore expand the existing CCP resolution regime, providing the Bank with a comprehensive set of tools and powers to protect financial stability and limit contagion within the financial sector. That includes powers to remove impediments to resolvability in a CCP before it gets into any difficulties, and the ability for the Bank to put a CCP into resolution before the CCP's own recovery measures have been exhausted, if continued recovery actions would be likely to compromise financial stability.

The schedule gives the Bank the powers needed to impose losses on the CCP and its clearing members in the first instance of the very unlikely event of failure, thereby protecting public funds. It also enables the Bank to take control of a failing CCP to stabilise the CCP and ensure the continuity of critical clearing functions while it is in resolution.

By expanding the existing regime we are also ensuring that our regime reflects international standards, as set out by the Financial Stability Board. That will cement the UK's reputation as a global leader in providing clearing services and further enhance confidence in the UK's financial system. The provisions therefore demonstrate the Government's ongoing commitment to high standards and effective stewardship of the UK's financial services sector, so I recommend that clause 50 and schedule 11 stand part of the Bill.

I also commend amendments 9 to 15 and 24 to 31. They are technical amendments that will ensure that schedule 11 functions as intended, reflecting the original policy intent by rectifying drafting errors and ensuring the legislation is applied consistently across the UK.

**Tulip Siddiq:** Because of the volume of trades cleared through CCPs, the failure of one could pose risks to the stability of the financial system. We therefore welcome clause 50 and the Government's various technical amendments. Does the Minister agree that, because of the high risk to the financial system that a failed CCP could pose, the expanded regime must be brought in as a priority? How long after the Bill has passed will the provision become law and the regime be implemented?

**Andrew Griffith:** I agree with the hon. Lady that, given the systemic importance, it is important to bring the regime into place as quickly as possible. It will be for the Bank to consult on that. I expect the Bank to do that shortly after Royal Assent and then bring forward the necessary measures to put it in place. I hope that is enough for the hon. Lady at this time. We want to see the implementation proceed as quickly as possible.

*Question put and agreed to.*

*Clause 50 accordingly ordered to stand part of the Bill.*

## Schedule 11

### CENTRAL COUNTERPARTIES

*Amendments made:* 9, in schedule 11, page 205, line 21, leave out "9A" and insert "9B".

*This amendment corrects a cross-reference so that the provision refers to paragraph 9B of Schedule 17A to the Financial Services and Markets Act 2000, which is inserted by clause 10 of the Bill.*

Amendment 24, in schedule 11, page 228, line 22, leave out sub-paragraph (1) and insert—

"(1) This paragraph applies where the Bank uses one or more of the stabilisation options mentioned in paragraph 1(3) in respect of a CCP unless the CCP has ceased to be subject to the exercise of any stabilisation power mentioned in paragraph 1(4)."

*This amendment widens the scope of paragraph 39 of Schedule 11, on shadow directors etc, by ensuring that it applies following the exercise of any of the Bank's stabilisation options under Schedule 11, not just the powers in paragraph 38.*

Amendment 25, in schedule 11, page 228, line 28, leave out

“, or as a temporary manager under paragraph 6.”.

*This amendment is consequential on Amendment 27 and omits the reference to temporary managers as they will be included in the list of relevant persons in paragraph 39(3) under Amendment 27.*

Amendment 26, in schedule 11, page 228, line 38, at end insert—

“(e) the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19));

(b) the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4));”.

*This amendment ensures that the list of relevant enactments in paragraph 39(3) of Schedule 11 includes the relevant Northern Ireland legislation so that the position regarding shadow directors is consistent across the UK.*

Amendment 27, in schedule 11, page 228, line 41, at end insert “, and

(c) a temporary manager appointed under paragraph 6 of this Schedule.”

*This amendment ensures that the list of relevant persons in paragraph 39(3) of Schedule 11 includes temporary managers, for consistency with the bank resolution regime.*

Amendment 28, in schedule 11, page 255, line 43, after “EMIR” insert

“where they have a contractual relationship as principal with the CCP”.

*This amendment operates on paragraph (d) of the definition of “relevant person”, to limit that group of persons entitled to compensation to those who are direct creditors of the CCP.*

Amendment 10, in schedule 11, page 256, line 16, leave out “or 29(3)” and insert “, 29(3), 66(2) or 73(2)”.

*This amendment provides that the definition of “residual CCP” applies to properties transferred under paragraphs 66(2) and 73(2) of Schedule 11 (transfers subsequent to resolution instrument and transfers subsequent to share transfer to bridge CCP).*

Amendment 29, in schedule 11, page 257, line 43, at end insert—

“(5) An obligation imposed on the residual CCP or a group company under sub-paragraph (2)(d) or (e) continues to apply despite the residual CCP or group company entering insolvency, and may not be disclaimed by a liquidator under section 178(2) of the Insolvency Act 1986 or Article 152(1) of the Insolvency (Northern Ireland) Order 1989.”

*This amendment provides an equivalent provision to section 64(6) of the Banking Act 2009 (continuity obligations relating to property transfers), to ensure that certain obligations continue to apply despite the residual CCP or group company entering insolvency.*

Amendment 11, in schedule 11, page 259, line 25, leave out

“CCP whose business has been transferred”

and insert “transferred CCP”.

*This amendment provides the correct terminology in relation to share transfers, to which this provision relates.*

Amendment 12, in schedule 11, page 259, line 26, leave out “property” and insert “share”.

*This amendment provides the correct terminology in relation to share transfers, to which this provision relates.*

Amendment 30, in schedule 11, page 260, line 19, at end insert—

“(5) An obligation imposed on the transferred CCP or a former group company under sub-paragraph (2)(b) or (c) continues to apply despite the transferred CCP or former group company entering insolvency, and may not be disclaimed by a liquidator under section 178(2) of the Insolvency Act 1986 or Article 152(1) of the Insolvency (Northern Ireland) Order 1989.”

*This amendment provides an equivalent provision to section 67(6) of the Banking Act 2009 (continuity obligations relating to share transfers), to ensure that certain obligations continue to apply despite the residual CCP or former group company entering insolvency.*

Amendment 13, in schedule 11, page 267, line 2, leave out “or onward” and insert “, onward, bridge or subsequent”.

*This amendment is consequential on Amendment 14.*

Amendment 14, in schedule 11, page 267, line 3, after “50,” insert “52, 66,”.

*This amendment adds to the list of instruments in paragraph 105(6) to include instruments made under paragraphs 52 (bridge CCP: share transfers) and 66 (property transfer subsequent to resolution instrument).*

Amendment 15, in schedule 11, page 267, line 5, leave out “or onward” and insert “, onward, bridge or subsequent”.

*This amendment is consequential on Amendment 14.*

Amendment 31, in schedule 11, page 299, line 30, at end insert—

“(g) the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19));

(b) the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)).”—  
(Andrew Griffith.)

*This amendment ensures that the list of relevant enactments in paragraph 165(2) of Schedule 11 includes the relevant Northern Ireland legislation so that the relevant law can be applied consistently across the UK in the event of a resolution of a CCP.*

*Schedule 11, as amended, agreed to.*

## Clause 51

### INSURERS IN FINANCIAL DIFFICULTIES

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

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

Government amendments 32 and 33.

That schedule 12 be the Twelfth schedule to the Bill.

That schedule 13 be the Thirteenth schedule to the Bill.

**Andrew Griffith:** Clause 51 introduces schedules 12 and 13. The UK insurance industry is the largest in Europe and the fourth largest in the world, managing investments of more than £1.8 trillion. It is an incredibly important part of our financial services sector. The UK’s insurance sector is robustly regulated and supervised, well capitalised and resilient to shocks; as a result, insurer insolvency is uncommon. However, as the UK is a global financial centre, the Government are through the Bill enhancing the powers available to the authorities

to manage an insurer in financial distress. That will strengthen protections for policyholders and mitigate potential value destruction when an insurer fails.

Schedule 12 makes provision for the powers of the court in relation to the liabilities of an insurer that is, or is likely to become, unable to pay its debts. I will describe its key provisions. The schedule defines an order made in the exercise of such powers as a write-down order, which involves reducing the value of an insurer’s contracts. It makes amendments to FSMA that are designed to make the new procedure more viable for an ailing insurer.

Part 2 of the schedule introduces the new role of a write-down manager—an officer of the court who will monitor a write-down. The manager will consider, on an ongoing basis, whether a write-down remains likely to lead to a better outcome for an insurer’s creditors and policyholders than if the write-down were not in effect.

Part 4 of the schedule provides for the PRA to amend its rules governing the Financial Services Compensation Scheme, requiring the scheme to provide top-up payments to certain policyholders affected by write-down orders. This safeguard aims to ensure that FSCS-protected policyholders are not worse off following a write-down than they would have been in insolvency.

Amendments 32 and 33 ensure that the drafting meets full policy intent. Amendment 32 ensures that the moratorium on legal proceedings does not interfere with certain collateral and security arrangements among participants in the financial markets. It also provides the Treasury with the power to amend the list of exclusions, which is given legal force by amendment 33. Both amendments mirror exclusions and a similar power to amend the exclusions contained in schedule 13.

Schedule 13 inserts proposed new schedule 19C into FSMA. It introduces provisions for the enforcement of contracts while an insurer is undergoing a write-down or certain insolvency proceedings. The changes are intended to provide certainty and stability to an ailing insurer’s financial position. The schedule defines “financial difficulties” and provides for restrictions on policyholder surrender rights when an insurer is judged to be in such difficulties.

Surrender rights allow policyholders to surrender life insurance contracts in exchange for cash value. Annual withdrawals of up to 5% of the policy value will continue to be permitted. The provisions will mitigate against the possibility of mass surrenders by policyholders, which could further destabilise an insurer in financial difficulties. However, part 2 of schedule 13 also enables specific parties, including the court, to consent to a surrender when satisfied that not doing so would cause hardship to a person.

Part 3 of schedule 13 provides that while an insurer is in financial difficulties, relevant contracts to which the insurer is party cannot terminate because the insurer is in financial difficulties. That seeks to mitigate the risk of value destruction, business disruption, policyholder harm and cost arising from the contracts being terminated.

11 am

The provisions enhance the powers available to the UK regulatory authorities and courts to manage an insurer in financial distress. That will strengthen protection



for policyholders and mitigate potential value destruction at the point of failure. I therefore recommend that clause 51 and schedules 12 and 13 stand part of the Bill.

*Question put and agreed to.*

*Clause 51 accordingly ordered to stand part of the Bill.*

### Schedule 12

#### WRITE-DOWN ORDERS

*Amendments made:* 32, in schedule 12, page 310, line 43, at end insert—

“(2A) Nothing in this Part of this Schedule affects the operation of—

- (a) Part 7 of the Companies Act 1989 (financial markets and insolvency);
- (b) the Financial Markets and Insolvency Regulations 1996 (S.I. 1996/1469);
- (c) the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979);
- (d) the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003/3226).

(2B) The Treasury may by regulations amend sub-paragraph (2A).”

*This amendment ensures that certain exclusions apply in relation to the moratorium on proceedings during a write down and provides a power to amend that list of exclusions.*

*Amendment 33, in schedule 12, page 315, line 8, after “paragraph” insert “3(2B) or”.—(Andrew Griffith.)*

*This amendment is consequential on Amendment 32 and ensures that regulations made under new sub-paragraph (2B) are subject to the affirmative procedure.*

*Schedule 12, as amended, agreed to.*

*Schedule 13 agreed to.*

### Clause 52

#### APPLICATION OF PROVISIONS TO REGULATORY FUNCTIONS UNDER THIS ACT

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

**The Chair:** With this it will be convenient to discuss clauses 53 to 59 stand part.

**Andrew Griffith:** The clauses contain a mix of substantive and technical amendments to FSMA, which lists the functions and responsibilities of the FCA and the PRA and requires them to perform them in line with their statutory objectives and principles. Clause 52 adds to that list the responsibilities conferred on the PRA and FCA by the Bill and any functions conferred on them by future regulations made under the Bill.

On clause 53, currently, except in a few specific circumstances, the FCA and the PRA cannot use their disciplinary powers against firms that committed misconduct when they were authorised if they cease to be authorised. That means that if a firm has committed misconduct while authorised, and that comes to light only once the firm has ceased to be authorised, the regulators cannot take disciplinary action. It also means that when an authorised firm is under investigation for misconduct, the regulators must sometimes choose to maintain the firm’s authorisation to preserve the ability to sanction it following the conclusion of the investigation. To address that, the clause will enable the FCA and the PRA to take action against unauthorised firms in relation to misconduct that occurred while they were authorised.

Clause 54 enables the regulators to impose conditions on new controllers of financial services firms when to do so would advance their statutory objectives. That fills a gap in the regime identified by the PRA and the Treasury Committee in its Greensill inquiry. It will give the regulators more flexibility to manage changes of control in a way that they consider appropriate with reference to their statutory objectives.

Clause 55 makes two minor technical changes to the legal framework governing the Financial Services Compensation Scheme. The Office for National Statistics reclassified the FSCS as a public financial auxiliary in 2020. To reflect that change and bring the FSCS in line with other public financial auxiliaries, clause 55 removes both the requirement for the FSCS to have an accounting officer and the Treasury’s power to require certain information in connection with accounts.

Clauses 56 and 57 are necessary to reflect the regulators’ additional rule-making responsibilities when retained EU law is repealed. Under the comprehensive FSMA model of regulation that the Bill enables, the direct regulatory requirements that apply to firms will generally be in regulators’ rulebooks rather than set out in legislation.

Clause 56 inserts proposed new section 141B to FSMA, giving the Treasury the power to make consequential changes to legislation to reflect changes to regulator rules. At the moment, domestic and EU legislation sometimes makes reference to regulator rules; the power will ensure that the legislative framework remains up to date and consistent if those rules change. It is a consequential power only.

Clause 57 enables the Treasury and regulators to make ambulatory references to regulator rules and domestic legislation respectively. That means that when the Treasury references regulator rules in secondary legislation, it can do so in such a way that the references will automatically update to refer to the current version of the rules whenever the regulator updates them, thereby ensuring that the regulator rulebooks and the legislation will remain consistent over time, without the need for constant amendments in response to respective changes.

Clause 58 allows the Treasury to amend and repeal provisions in part 9C of FSMA that were introduced by the Financial Services Act 2021, which dealt with the immediate post-Brexit priorities for financial services, including by implementing the latest Basel standards, while the wider approach to regulation was considered as part of the Government’s future regulatory framework review.

Sections 143C and 143D of FSMA create duties for the FCA to establish the investment firm’s prudential regime, and section 143G requires the FCA to have regard to certain matters when making rules as part of that regime. Those provisions will be replaced by the general approach to obligations and “have regards” that the Bill introduces, which the Committee has already considered. Clause 58 enables those sections to be amended to avoid duplication.

Clause 59 introduces small technical amendments to two provisions of FSMA that cover transitional arrangements. The amendments ensure that an existing power to make transitional arrangements under sections 426 and 427 of FSMA is updated to correctly refer to the current regulators—the FCA and the PRA—and is

[*Andrew Griffith*]

available to the Bank of England when it is acting as a FSMA regulator. I recommend that the clauses stand part of the Bill.

**Tulip Siddiq:** We welcome this series of technical clauses, but I have two questions for the Minister. First, will he set out what disciplinary action regulators could take under clause 53 against firms that are no longer authorised? Secondly, on clause 55, the Transparency Task Force has recommended the creation of a financial regulators' supervisory council, which would have a number of roles, including appointing and overseeing the Financial Services Compensation Scheme, to ensure greater independence. If the Minister is aware of that proposal, what assessment has he made of it? If he is not, I would be happy to hear his thoughts about it after the sitting.

**Andrew Griffith:** I thank the hon. Lady for those points. The powers that the regulators will have in relation to formerly authorised firms will mirror those

that they have in relation to authorised firms: they will have the full range of powers to seek information and to impose sanctions, remedies and conduct. The substantive purpose of the measures is to ensure that those powers are not extinguished at the moment a firm becomes unauthorised.

I am not familiar with the detail of the proposal for a financial supervisory board that the hon. Lady mentioned, but we have a good framework for the supervision of financial regulators. I and the Government will always be interested in any practical suggestions to enhance that without duplication and unnecessary obfuscation about where true responsibilities lie.

*Question put and agreed to.*

*Clause 52 accordingly ordered to stand part of the Bill.*

*Clauses 53 to 59 ordered to stand part of the Bill.*

*Ordered, That further consideration be now adjourned.*  
—(*Joy Morrissey.*)

11.11 am

*Adjourned till this day at Two o'clock.*



