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Public Bill Committee

FINANCIAL SERVICES BILL

Sixth Sitting

Tuesday 24 November 2020

(Afternoon)

CONTENTS

PBC (Bill 200) 2019 - 2021

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Saturday 28 November 2020

The Committee consisted of the following Members:

Chairs: PHILIP DAVIES, † DR RUPA HUQ

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

Kevin Maddison; Nicholas Taylor, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 24 November 2020

(Afternoon)

[Dr Rupa Huq *in the Chair*]

Financial Services Bill

2 pm

The Chair: We now continue the line-by-line consideration of the Bill. I think everyone is okay with all the normal announcements about social distancing, *Hansard* and tea and coffee. The Clerks have told me that you have to ask my permission to remove your jackets, so I can unilaterally grant everyone permission to strip off—to remove their jackets if they so wish. As you know, we may debate amendments together when that is logical, but the votes on them will not necessarily be in the same sequence.

Schedule 2

Prudential regulation of FCA investment firms

Mr Pat McFadden (Wolverhampton South East) (Lab): I beg to move amendment 21, page 63, line 5, in schedule 2, at end insert—

"( ) high standards in social practice and corporate governance including pay, adherence to equalities legislation, transparency and corporate responsibility, and"

This amendment would require that, when making Part 9C rules, the FCA must have regard to high standards in social practice and corporate governance including pay, adherence to equalities legislation, transparency and corporate responsibility.

The Chair: With this it will be convenient to discuss amendment 25, page 79, line 29, in schedule 3, at end insert—

"( ) high standards in social practice and corporate governance including pay, adherence to equalities legislation, transparency and corporate responsibility."

This amendment would require that, when making CRR rules, the FCA must have regard to high standards in social practice and corporate governance including pay, adherence to equalities legislation, transparency and corporate responsibility.

Mr McFadden: Thank you for your chairmanship, Dr Huq. Your initial instructions threaten to make the proceedings a lot more interesting than this morning's. We will not take them too literally when it comes to how much clothing we remove.

Like amendment 20, on which we concluded debate this morning, amendment 21 relates to schedule 2 on page 63 of the printed Bill. It is designed to ensure that the regulators have regard not only to environmental regulations, which we tried to press this morning, but to social and governance considerations.

Committee members who have anything to do with the sector or industry will know that the letters ESG—environmental, social and governance—come up a lot. I am sure that, like me, the Minister does lots of roundtables, meetings and so on, and he will be struck by the enthusiasm with which City voices are speaking about ESG. We dealt with "E" this morning when discussing amendment 20; amendment 21 is about the "S" and the "G".

The agenda of prioritising those things goes with the grain of what investors and fund managers say, at least, they are doing of their own accord. However, we believe that adding it to the Bill and the regulatory framework would put regulatory force behind these trends, which already exist with varying degrees of enthusiasm in the investor world.

The Chair: Order. I think you were told this morning that if you crank the volume up a bit, it is better for the recording.

Mr McFadden: I apologise, Dr Huq; I shall try to speak up.

There are many fine-sounding statements about ESG principles on corporate websites. Some of the toughest money management companies in the world are now telling us that it is no longer just about quarterly or annual returns, but about long-term sustainability. We are told that investors do not want to be making money on the back of poor governance or shoddy or illegal working practices; they want their investments to be in companies and projects that are sustainable for the long term and are run in the right way.

With your indulgence, Dr Huq, I will illustrate that with an example that has been in the news recently. I want to consider what these corporate statements were worth in the case of the clothing firm boohoo. When *The Sunday Times* exposed the shocking conditions in boohoo's supply chain back in July, including paying workers in the supply chain well below the minimum wage and serious fire risks in the factories in which the clothes were made, the company commissioned an independent review of the supply chain. That was chaired by Alison Levitt QC; she reported in September. She found that the allegations about the supply chain were

"not merely well-founded but substantially true".

On the corporate governance side of things, her findings were damning. Her report says:

"No member of the Board I interviewed mentioned that the responsibility for what is happening in the supply chain derived from the duty of the company's officers to act in the best interests of all the shareholders."

In other words, the board did not understand that it was not in the interest of their own shareholders to allow a supply chain in which these illegal practices were taking place. Ms Levitt was effectively concluding that the board did not know it was their duty—or that if they did know, they did nothing about it.

Ms Angela Eagle (Wallasey) (Lab): Does my right hon. Friend agree that the lack of effective enforcement is also an important factor in boards' thinking that the risk may be worth taking? Lack of effective enforcement has been a feature of the last 10 years, as enforcement authorities have been starved of funding and retreated further and further from the frontline, where these practices are going on.

Mr McFadden: My hon. Friend is absolutely right. The point I am making in moving the amendment is that, although there are arguments to be made about enforcement and minimum wage inspectorates and so on, there is another side to the issue: the considerations for investors in these companies and the role of regulators. That is what the amendment is about.

Following Ms Levitt's report, my hon. Friend the Member for Leicester West (Liz Kendall) wrote to all of boohoo's main shareholders—the list reads like a "Who's Who" of blue-chip City firms: it includes Jupiter, Fidelity, Invesco, BlackRock and Standard Life Aberdeen. None of those firms—with one notable exception, which I will come to—has taken meaningful action. They talk about engaging and following the situation closely, but only one has actually followed through. All the firms have on their websites very fine-sounding statements about ESG, corporate governance, social considerations, sustainability and so on—indeed, some have set themselves up as champions of those causes.

Let me come to the exception to the rule on that list: Standard Life Aberdeen. It has sold all its shares in boohoo and is clear about why. In a letter to my hon. Friend the Member for Leicester West, the Standard Life Aberdeen chairman Sir Douglas Flint says that the firm had been concerned about the supply chain for some time and that

> "Our patience with the company's responses on the issue had been diminishing during the last year. That patience evaporated this summer with the company's response to the media allegations and that is why we took the decision to sell our remaining shareholding."

Standard Life Aberdeen is run by serious people. It is a very reputable, important financial management firm and it has decided to act in accordance with its ESG principles and wants to uphold them. What the story shows is that too many companies do not and that often it is just words.

Our amendment seeks to put some regulatory force behind the upholding of these principles. Firms say that they want to uphold them, but, as the story shows, too often that is not the case—action is wished away with talk of engagement and monitoring the situation and all the rest of it. The amendment would make the regulator have to have regard to the exploitation of workers and make upholding high social and governance standards a hallmark of the UK financial services industry. In that way, we would not just depend on good people such as Sir Douglas Flint and on companies that are the exception to the rule; we would send a clear signal to the whole investment industry about the kind of response that we want to see. Otherwise, the fear must be that, although there will be plenty more warm words and mission statements, they will be of little comfort to someone working in an overheated factory and earning £3 or £4 an hour—about half the minimum wage—and that, when the story is exposed and the exploitation is no longer hidden, the investors in the company that is ultimately responsible will not do anything about it.

I ask the Minister to imagine the signal that such a regulatory duty could send. Not only would there be a minimum wage law, as there is now, but the UK's supercharged, empowered regulators would have social and governance considerations at the heart of what they do.

We have had many debates about standards and what would happen in the UK after Brexit on this issue. Time and again, the Prime Minister has said that he does not want a race to the bottom: he wants the UK to uphold high international standards and there is absolutely no reason to think that our departure from the EU should be any threat to rights of work or any considerations like that. This amendment is a chance to prove that and put it at the heart of financial regulation.

The truth is that companies are much more likely to take such considerations seriously if their investors are tapping them on the shoulder and saying, "Why aren't you doing that?" It is clear that Standard Life Aberdeen tried to do the right thing for a time with boohoo and eventually got so exasperated that it divested itself of its shares in the company. That is what we want to see more of from major investors and shareholders. It is not happening enough at the moment. The fine words on corporate websites are not matched enough by that kind of action.

Adding what is in the amendment to the regulators' "have regard to" list and the accountability framework in the Bill would send a powerful signal about the character of post-Brexit financial services. That is why we have tabled it today.

Alison Thewliss (Glasgow Central) (SNP): It is a pleasure to see you in the Chair, Dr Huq. I rise to support the amendments tabled by the Labour Front Bench. It is really important to hold financial services firms to account; the example of boohoo given by the right hon. Member for Wolverhampton South East is a perfect example. Standard Life Aberdeen really should not be the exception rather than the rule. All financial firms should take their duty seriously, look all the way through their supply chains and act responsibly. It is clear that if the carrot of "doing the right thing" is not working, we need further means to hold companies to account.

The amendment is one of those that make me ask myself, "Why wouldn't the Government want to do this? Why wouldn't the Government want to support these things? Whose interests do they serve if they do not want to put this in the Bill?" The Scottish National party feels strongly that, although ESG is not the end of the movement towards a fairer, more sustainable future, it is certainly a vital part. We support the growing trend in the private sector towards greater corporate responsibility. By taking a greater stake in the communities where they operate, firms can become partners for social progress.

I was struck by the evidence given by Fran Boait in the session last week. She said:

> "The Bill sets the direction, and it needs to integrate the needs of the wider economy, social responsibility, the environment and thinking about how we set a direction that is different from the one that led to the global financial crash".—[*Official Report, Financial Services Public Bill Committee,* 19 November 2020; c. 112.]

The amendments set a good example of that change in direction and responsibility, and of the strong message that the Government need to send out.

To an extent, we have been able to do that in Scotland. We have promoted social responsibility in corporate culture, not least through actions such as the Scottish business pledge. We welcome a wider framework, which would encompass the financial sector and encourage them to do their bit. The partnership between the Scottish Government and business is based on boosting productivity and competitiveness through fairness, equality, environmental action and sustainable employment. It is a commitment to fairness, with businesses signing up to mandatory elements of the Scottish business pledge

[Alison Thewliss]

such as paying the real living wage—not the pretend-y living wage that the Government like to promote: the real living wage, as set by the Living Wage Foundation—and closing the gender pay gap, which has slipped during covid and may well fall back.

2.15 pm

Stella Creasy (Walthamstow) (Lab/Co-op): We should put on the record that the gender pay gap has not slipped but has been abandoned as a commitment by the Government. I hope the Government will rethink that quickly, given the importance of the case that the hon. Lady makes. It has not slipped—it has gone.

Alison Thewliss: I meant more that the actions of businesses had slipped, but the hon. Lady is correct to point out that the Government have abandoned that commitment as well. I was going to go there with that point. If companies are not held to account, that slippage will become irreversible. Companies have worked so hard to try to bridge that gap, and going backwards really is unacceptable.

By bringing those elements together, companies across Scotland have shown that they can improve productivity and competitiveness and build sustainable growth in a way that achieves fairness, equality, opportunity and innovation. We have the UK's highest proportion of living wage employers in Scotland because the Scottish Government made that commitment. That is what we can do with the limited powers that we have. If we were to put into legislation here far more responsibility and accountability, it would certainly move that agenda forward.

In addition, we believe that moves such as increasing worker representation on company boards, which is commonplace among our more productive, investment-rich European competitors, would promote much greater social responsibility among companies that had that representation, as would increasing the representation of women and minority communities on public and private sector boards.

Scotland is on track to ensure that all public sector boards have a 50/50 gender balance due to the statutory targets that we put in place. We would support similar UK legislation for the private sector, because if these things are not in place, it will take a very long time before we see any meaningful change. The evidence shows that it is good for companies and organisations to do that, because they do better when they better represent society.

It is important that we make sure that companies are held to account in this way. The amendments tabled by the official Opposition are good and sound. I am interested to hear why the Minister thinks that they are not good ideas worthy of pursuit.

The Economic Secretary to the Treasury (John Glen): It is great to be under your chairmanship again, Dr Huq. I thank the right hon. Member for Wolverhampton South East and the hon. Member for Glasgow Central for their comments.

The right hon. Gentleman opened with a depiction of the appalling situation with Boohoo, the Levitt review and the challenge of securing widespread adherence to higher standards of corporate governance. He mentioned the actions of Sir Douglas Flint from Standard Life Aberdeen, with whom I have worked closely during the last three years.

Many of the particular aspects of that case are beyond the scope of the Bill, but the right hon. Gentleman uses it to illustrate the reasons why he tabled the amendments, which would introduce a new "have regard" in the accountability regime to which the Prudential Regulation Authority and Financial Conduct Authority would be subject when implementing the Basel standards and the investment firms prudential regime respectively. The amendments would require the PRA and FCA to consider higher standards in social practice and corporate governance when making new rules under the Bill.

It is unclear from the wording of the amendments whether regulators would need to look at their own best practices or those of the firms they regulate. Regardless, I fully support the intention behind the amendments. Indeed, I have chaired the asset management taskforce over the past three years: we have had 10 meetings with industry representatives, including Catherine Howarth, whose responsible investment charity ShareAction has done some significant work on stewardship and how we can get better transparency across the whole of the ESG agenda. Indeed, I believe that our report on that will be produced imminently.

There is no doubt that the regulators are committed to the highest levels of equality, transparency and corporate responsibility. For example, the UK has some of the toughest requirements on bonus clawback and deference in the whole world. The Government, working with the regulators, were also world-leading in the design of an accountability regime for senior managers in the industry; sequentially, over the past three years, that has extended to more and more parts of the financial services industry.

FCA solo-regulated firms are expected to have undertaken a first assessment of the fitness and propriety of their certified persons by 31 March 2021. The senior manager and conduct regime, implemented for all banks, building societies, credit unions and Prudential Regulation Authority-designated investment firms in 2016, was extended to cover insurance firms in December 2018 and most other FCA-regulated firms by December last year.

However, the track record of our regulators should not make us shy away from making them legally accountable for upholding the highest standards going forward. The fact is that the regulators, as public authorities, are already subject to the requirements under the Equalities Act 2010, as are businesses across the UK, including firms within the scope of the PRA and FCA remits. They already have existing powers and duties under the Financial Services and Markets Act 2000, which is being amended by this Bill, in respect of pay, transparency and principles of good governance. In fact, they are already responsible for making rules on remuneration under these two prudential regimes.

I recognise that when I think about the City, there are significant elements that need more work. For the past while, I have been responsible for the women in finance charter. I am currently conducting a series of challenges to the CEOs of banks, looking at what they are doing to address, beyond the targets, a pipeline of talent, so that there are better opportunities for more women to reach the executive level. I will speak more about that later this year.

Sound governance is necessary to support the regulator's primary objectives of safety and soundness, market integrity and prevention of harm; a new legal obligation in this space would only be duplicative and redundant. It would likely conflict with existing obligations on the regulators in exercising their duties to ensure the sound governance of regulated bodies, creating confusion over whether these vaguer concepts conflict with the regulator's general objectives.

I do not believe that this Bill is the right place for such changes, but there might be other routes to reassert how important we think these matters are. The Government are currently considering the policy framework in which the regulators operate through the future regulatory framework review, which I mentioned this morning and on Second Reading. I would welcome right hon. and hon. Members' engagement on this important question—I really would. The matters that the regulators need to have regard to as part of this Bill reflect considerations immediately pertinent to these specific prudential regimes and, I believe, provide the right balance.

Abena Oppong-Asare (Erith and Thamesmead) (Lab): I am really happy to put forward amendment 25, because it will require that, when making capital requirements regulation rules, the FCA must have a high regard to standards in social practice and corporate governance, including pay, adherence to equalities legislation, transparency and corporate responsibility.

We know that best practice corporate governance results in social and economic gains, and that is something the Government are particularly passionate about. Companies that persist in treating climate change solely as a corporate responsibility issue, rather than a business problem, are running a risky business and stand to lose out.

We have seen businesses turn the need to tackle climate change into successful business opportunities. For example, BrewDog, the world's largest craft brewer, will remove twice as much carbon from the air as it emits every year, becoming the first carbon-neutral brewery. If companies can already shoulder this social responsibility and incorporate it into a successful business model, there is no reason not to hold all businesses to the high standards our country needs to tackle imminent social and political issues.

Climate change affects every facet of everyone's lives. The effects of climate on companies' operations are now so tangible and certain that the issue demands a strategy and leadership from the Government. Government intervention has worked before, and it will work again, particularly through amendment 25. Take the Equal Pay Act 1970, for example, which was mentioned previously. Business and civil society converged, and companies with over 250 employees were made to publish data on pay gender discrepancies, resulting in a win-win scenario. Excellent work is now being done to tackle this further and understand racial, gender and environmental concerns, which are intricately linked. We have to follow civil society's work on equal pay and extend the reporting to data collections on the grounds of racial equality and environmental equity, because our actions will be futile if our evidence is not fertile.

There is no one-size-fits-all approach to climate change: each company's approach will depend on the particular business and strategy. What we are calling for in this amendment is for the Government to support and enable employers to publish an action plan to tackle climate change and social inequalities, including initiatives to mitigate climate-related costs and risks in client value chains. Jesse Griffiths, the CEO of the Finance Lab, had some important advice for the Committee last week. He said:

"I think that the absolutely fundamental issue with regards to the Bill is that it is an opportunity to put social and environmental purpose at the heart of both the regulation and the duties of the regulators."—[*Official Report, Financial Services Public Bill Committee,* 19 November 2020; c. 113.]

Environmental engagement is economic effectiveness, and this amendment will improve the economic health of our businesses and the environmental health of our country.

The amendment would also ensure that regulators can act in accordance with social needs, and ensure that businesses maintain corporate responsibility while still thriving in a competitive marketplace. When the Government asked Ruby McGregor-Smith to review the diversity pay gap, I welcomed that initiative. Campaigners have moved mountains in terms of identifying the profitability, both social and economic, of deepening our commitment to diversity and opportunity of wealth and health creation for all. In McGregor-Smith's review, "The Time for Talking is Over, Now is the Time to Act", she highlights how for decades, successive Governments and employers have professed their commitment to racial equality, yet we see that vast inequalities still exist. We must ensure this does not happen with our commitment to environmental stability, and the amendment will help ensure that.

Racial equality, gender equality and environmental stability can never be achieved unless we understand the ways in which they are intricately linked. As Ruby says, the time for talking is over, and I am sure that all the young people participating in the mock COP as we speak agree. I know that I mentioned this earlier about young people, but they are important: they are our future, and we really need to take them into consideration. With 14% of the working-age population coming from a black or minority ethnic background, we know that employers have to take control and start making the most of our talent, whatever their background.

The point stands out when looking at the pay gap for disabled people in the UK. In 2018, the median pay for non-disabled employees was £12.21 an hour, while for disabled employees, it was £10.63. The Minister mentioned earlier that he sat on the asset management taskforce—

John Glen: Chaired.

Abena Oppong-Asare: Chaired—apologies; I have bad hearing. He gave examples of shared actions and how to get better transparency, and mentioned that regulators are already committed to higher transparency. I am sure he agrees with me that businesses need to be held to account. The amendment will also help to create an environment that nourishes talent equality and protects our natural habitable environment.

The amendment basically brings huge financial, environmental and social rewards. Companies must realise they cannot ignore those issues anymore. However, we know that most companies will act only when they see a reason to do so. What we need is less talk and more action.

2.30 pm

Ruby McGregor-Smith highlights how BME representation in some organisations is clustered in the lowest-paid positions. She calls for employers with more than 50 people to set aspirational targets to increase diversity and inclusion throughout the organisation, not just at the bottom. Such reporting and data knowledge must be applied in other aspects of social and environmental regulations—I repeat, daylight is the best disinfectant.

The amendment will allow employers to push their aspirational targets, be transparent about their progress and be accountable for delivering them. The Government must legislate to make larger businesses publish their ethnicity data by salary to show progress. This is not about naming and shaming; no large business has a truly diverse and inclusive workforce from top to bottom at the moment, but with thorough publishing of data, the best employers will be able to show their successes and encourage others.

The same must be said for environmental targets. We must understand that our people's health and our wealth is our environment, particularly in this climate where we are dealing with the impact of the coronavirus. Let us not reinvent the wheel and double up on best practice, research and proposals that are already being provided by the Government; we have the opportunity today to vote to give regulators the power to ensure that businesses are held to account in areas of corporate social responsibility. It is important that the amendment sets a precedent that UK businesses adhere to the changing needs of our societies.

As I mentioned earlier, businesses such as Boohoo—I would also like to include Barclays in this—have shown how, without appropriate regulation, lives have been put at risk. As mentioned by my right hon. Friend the shadow Economic Secretary to the Treasury, Boohoo has been in the news for hiring supply chain workers for less than the minimum wage. That is unacceptable and shows that we need to regulate to ensure transparency in the supply chain.

Barclays was also under fire this year after increasing its support for fossil fuel companies. Despite announcing in March that it would target net-zero carbon emissions by 2050, the UK lender provided £24.58 billion of underwriting and lending to large fossil fuel companies in the first nine months of the year—a £200 million increase over the same period in 2019, according to the Rainforest Action Network.

It has been recommended that the capital requirements for investment firms introduce weightings for environmental, social and governance issues. The amendment would enable that to happen and position the UK as a leader in corporate social governance. I am sure we all agree that that is what we want the UK to be.

John Glen: I have listened carefully to the points made by the hon. Lady, who touches on a wide range of subjects, some of which I responded to in my response to the shadow Minister. I would just say that a number of initiatives are under way and intensifying. Just a few hours ago, I launched a piece of work with the Corporation of London on social diversity, a taskforce to bring people together to look at what we can do to improve access to financial services. That follows the work that we have been doing and that former Minister Mark Hoban is doing with the Financial Services Skills Commission. I mentioned the work of Women in Finance, but there are a lot of other pieces of work that my colleague the Exchequer Secretary is also looking at in her dual role as Equalities Minister.

I made clear in my response a few moments ago that I believe the provisions we have already give the regulators significant licence to operate in this area and, although I do not rule out any changes subsequently, I believe at this time that the amendments should be resisted.

Stella Creasy: The challenge that the Minister has with these instruments is exactly the issue around the gender pay gap. We were told that that did not need to be written into the legislation, because there would be a commitment. As we have seen this year, that commitment has not been absolute. It has been abandoned by the Government.

The Minister has said that he agrees with those commitments and the issues that the shadow Minister has raised, and that they might be put into legislation. Does he recognise that, for those of us who are committed to those high standards, the point of such amendments is to put it beyond doubt that they will actually happen? As we have seen, if we do not put them beyond doubt, it is tempting for future Administrations and future regulators to remove or weaken the protections.

John Glen: I thank the hon. Lady for those points. As public bodies, it is clear that the regulators are answerable and accountable to Parliament, and I have explained how that will be enhanced, but they are also subject to legal duties to publicly consult on the new rules and to how Parliament wishes to scrutinise them. I recognise the point that she is making, but I believe that putting that obligation into legislation in that way would not immediately lead to the outcome that she supports. Across those areas of completely legitimate aspiration, many of which I share in an identical form, this is something that we would need to look at in the round following the regulatory framework review.

Alison Thewliss: I appreciate the work that the Minister and other Ministers are doing in this area, but does he accept that he if puts it into the legislation, he might actually have less work to do, because everybody will then be obligated to do it, rather than him having to ask nicely?

John Glen: Unfortunately, I do not share that view. Given the arguments that I have made about the complications that it would bring, because of the overlap with existing provisions, I do not think that would be the right way to go. I am very sympathetic, however, to many elements of the speeches made concerning the aspirations that we should have to improve the overall quality of corporate governance and behaviour across the City.

Mr McFadden: I am sure that the Minister is completely genuine when he says that he supports this agenda and the aims behind the amendment, but anyone who has followed the issue over the years will realise that we have had taskforces galore on it in the City. We have had taskforces on women on boards and on diversity; now we have a new one on social mobility. I wish that well but, after all those taskforces, do those in the top jobs in this sector—the real pool of decision makers—reflect the country as it is today?

John Glen: Yes.

Mr McFadden: Of course they don't. We cannot conclude that, for all the taskforces and all the well-meaning, great people who have been involved in them, they have made enough progress.

This is not just a British agenda by the way. I read in the news the other day that the upper echelons of German industry are having exactly the same debate about whether to mandate quotas on boards for so many women and about the broader equalities agenda that my hon. Friend the Member for Erith and Thamesmead referred to.

Stella Creasy: If we are recognising that, it is worth noting that other nations that we compete with have already put gender quotas into legislation and beyond doubt, so we are behind our economic competitors. Ultimately, as we all know, the point about such regulation is that it would also make us more competitive. Blasting through the discrimination that has stopped us doing it would help our economy as well as our society.

Mr McFadden: My hon. Friend is absolutely right. For those reasons, we made specific mention of equalities legislation in the amendment.

It comes down to one's view of the difference between encouragement, taskforces and all that, and legislation. This amendment is not particularly prescriptive. It calls for high standards of social and corporate governance. Hon. Members might say, "How do you define 'high'?" and so on, but it is no less defined that talking about the relative standing of the United Kingdom as a place for internationally active investment firms to do business.

Once we have been through two or three of these debates, we begin to see a pattern in the way that the Committee works. I find myself a bit unconvinced that voluntary action will do this. There is not just an opportunity but a duty on us to start to define the post-Brexit financial services sector and what its characteristics will be. I want to put a few teeth behind all the fine words we have heard about the commitment to high standards, having no race to the bottom and all the rest of it. I always remember the plea of the former Chancellor, George Osborne: anybody in politics should be able to count. I look around the room and I can count, but I still want to press the amendment to a vote.

The Chair: We move to a vote—how exciting.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 10.

Division No. 3]

AYES

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

NOES

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

Question accordingly negatived.

Alison Thewliss: I beg to move amendment 38, page 63, line 5, in schedule 2, at end insert—

"(ba) the likely effect of the rules on trade frictions between the UK and EU, and".

This amendment would ensure the likely effect of the rules on trade frictions between the UK and EU are considered before Part 9C rules are taken.

The Chair: With this it will be convenient to discuss amendment 41, page 79, line 29, in schedule 3, at end insert—

"(ca) the likely effect of the rules on trade frictions between the UK and EU, and".

This amendment would ensure the likely effect of the rules on trade frictions between the UK and EU are considered before CRR rules are taken.

Alison Thewliss: One of the things that concerns us most about where we are going with Brexit is the risk of trade disputes. We need only look at how one dispute can overspill into another, such as the overspill from Airbus/Boeing into Scotch whisky and cashmere—it is not very wise to spill Scotch whisky on cashmere. Our amendments are therefore sensible. They strengthen what is already in the Bill.

Proposed new section 143G(2) to the 2000 Act states that

"the FCA must consider the United Kingdom's standing in relation to the other countries and territories in which, in its opinion, internationally active investment firms are most likely to choose to be based or carry on activities."

Proposed new section 143G(3) states that

"the FCA must consider, and consult the Treasury about, the likely effect of the rules on relevant equivalence decisions."

That adds further consideration to the impact on trade frictions.

2.45 pm

There is still not clarity about what things will look like at the end of the year. Given that financial services are such a huge part of not just the UK economy but the Scottish economy, we feel that it is important that trade and the impact of overspill is looked at within the amendments. It is of significant concern that we do not know what the deals will look like in many ways. Despite the Chancellor's statement on his equivalence declarations, the EU has not sent yet out someone to respond. I appreciate that the Minister will say that that is up to the EU and the EU needs to move on this. It is true that there are two parties to this, but in order to prevent things from getting out of hand, it is important that that becomes part of the consideration and that in passing rules we look at the wider implications of what it means for financial services.

John Berrigan, the European Commissioner's top financial services official, is quoted in the *Financial Times* describing the end of the transition period as an "unavoidably fragmenting event". That type of fragmenting event could go in many different directions. There could be overspills from one thing to another, where the disputes from one area come into another. That is why it is important for financial services, which has been a seriously overlooked part of the Government's Brexit negotiations, that we take the small amendments that we have before us into a wider consideration and that we are very careful about the decisions that are made and the impact they could have.

I feel that that fits neatly within the change that we propose to schedule 2. I just want to add this bit in to make sure we do absolutely everything we can to prevent any trade disputes or frictions and anything that makes it more difficult for the financial services sector to trade, to make deals and to keep people employed in this country, rather than taking the easy option of shipping it over to mainland Europe. We need to take all of these things into account to make sure that we protect the jobs and economy that we have here and prevent anything spiralling out of control. We see from other trade disputes just how easily that can happen. The regulators should be mindful. If they are being mindful of other things, they should be mindful of this as well.

Mr McFadden: I will speak briefly in support of the amendment. I think it adds an interesting new angle to our considerations on the schedule. There is quite a lot in the schedule about the UK's standing as a place to do business. Proposed new section 143G(1)(b) to the 2000 Act talks about the

"relative standing of the United Kingdom as a place for internationally active investment firms".

Proposed new section 143G(2) says that

"the FCA must consider the United Kingdom's standing in relation to the other countries and territories in which, in its opinion, internationally active investment firms are most likely to choose to be based or carry on activities."

None of us has argued that those are not completely legitimate considerations. Of course we want to consider our standing in relation to other countries, but that is different from the trading aspect.

The amendment points out that decisions can be taken that are facilitated by the Bill, for example on divergence, which we have discussed and will discuss further, and those decisions can have one impact on competitiveness but a very different one on the ability to trade. That is particularly important when this equivalence decision is still on the table. I think these amendments on considering our trading position usefully add to the job description of the regulators, which should be about not just competitiveness, but market barriers, market access and our ability to trade into other countries. Considering both of these proposals would be a good addition to the "have regard to" list set out in schedule 2.

John Glen: It is a pleasure to respond to the hon. Member for Glasgow Central and the right hon. Member for Wolverhampton South East. The hon. Members for Glasgow Central and for Aberdeen South propose to introduce a new "have regard" for the FCA and PRA when making rules for the new investment firms prudential regime and implementing the Basel standards respectively. That would require the regulators to consider the likely effect of their rules on trade frictions between the UK and the EU, as the hon. Lady set out.

Again, I understand and share the ambitions for frictionless trade between the UK and one of our biggest trading partners, the EU, but, as I am sure the Committee will understand, I am not able to discuss the details of our ongoing negotiations. We want a free trade agreement outcome with the EU that supports our global ambitions for financial services, and we have engaged with the EU on the basis that the future relationship should recognise and be tailored to the deep interconnectedness of those relationships across financial markets. The EU has made it clear that it does not support such an approach. We remain open to future co-operation with the EU that reflects our wide, long-standing, positive financial services relationship, and we will continue to engage in a constructive manner.

The regulators do not have oversight beyond their financial services remit. It would therefore be highly disproportionate to require them to assess the impact of their rules on all trade matters, covering goods and services. Furthermore, trading partnerships with overseas jurisdictions are the Government's responsibility, not the regulators'. We consider that regulators should not be asked to go beyond the scope of their capabilities and duties. We have already discussed the capacity of the regulators; the amendment would really go beyond that.

We agree that financial services firms care about the UK's relationship with overseas jurisdictions, which has a real impact on them. That is why the accountability framework that the Bill will introduce already requires regulators to consider the likely effect of their rules on financial services equivalence granted by and for the UK. Financial services equivalence will be the main mechanism underpinning financial services relationships between the UK and overseas jurisdictions. I believe therefore that the accountability framework, as proposed, meets the aim of the hon. Member for Glasgow Central.

In addition, the amendments focus solely on the relationship between the UK and the EU. That is obviously a matter of enormous concern, but we need to make legislation that accounts for the future. Equivalence or trade in financial services considerations must relate to all jurisdictions. It is crucial that we recognise that in the context of financial services firms, which often have a global footprint and global operations. That also reflects the UK's present and future ambitions.

The accountability framework recognises the importance to UK firms of our relationship with overseas jurisdictions in financial services matters, while upholding broader international obligations. The Bill already supports the intentions behind the amendment, and for that reason I ask the hon. Lady to withdraw it.

Alison Thewliss: I would prefer to press the amendment to a vote because it fits well with the other parts of the Bill. Asking the FCA to consider the UK's international standing with other countries aligns with other areas in which it is taking on wider roles, and the amendment reflects that. Regulators should have regard to the wider impact of their decisions and to problems that their rules might cause to trade between the UK and the EU, which could be quite significant. It seems wise to put that in the Bill so that the regulators are mindful of it in the decisions that they make.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 10.

Division No. 4]

AYES

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

NOES

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

Question accordingly negatived.

Mr McFadden: I beg to move amendment 22, in schedule 2, page 63, line 10, at end insert—

'(2A) The FCA must not make Part 9C rules unless—

(a) a draft of those rules has been submitted for scrutiny by a select committee of either House of Parliament which has a remit which includes responsibility for scrutiny of such rules, and

(b) any such committee has expressed a view on the draft of those rules.'.

This amendment is designed to enhance the accountability framework for the FCA by requiring it, prior to making Part 9C rules, to submit a draft of those rules for scrutiny by a relevant Parliamentary select committee before making any regulatory changes.

The Chair: With this it will be convenient to discuss amendment 26, in schedule 3, page 79, line 35, at end insert—

'(2A) The PRA must not make CRR rules unless—

(a) a draft of those rules has been submitted for scrutiny by a select committee of either House of Parliament which has a remit which includes responsibility for scrutiny of such rules; and

(b) any such committee has expressed a view on the draft of those rules.'.

This amendment would enhance the accountability framework for the FCA by requiring it, prior to making CRR rules, to submit a draft of those rules for scrutiny by a relevant Parliamentary select committee before making any regulatory changes.

Mr McFadden: We slightly change tack with this amendment. We have had some discussion of the "have regard to" list in the schedule, but the amendment covers a different aspect, dealing with the relationship between the enhanced role that regulators are to be given under the Bill and the role of Parliament. There are two important aspects to the role. First, in which way should Parliament be involved? Secondly, when should Parliament be involved? By that I mean, at what point in the regulatory process is it appropriate to have parliamentary involvement?

On Second Reading and several times today, the Minister has encouraged us not to look at the Bill in isolation but to see it as part of a process of reform, possibly involving other such Bills in the future. This may be only the starter and, if hon. Members are really lucky, they could be invited back here next year for the main course—who knows? In particular, he has asked us to look at the Bill alongside the consultation document on the future regulatory framework review, which was published a month ago. That document, which is I think 30 to 40 pages long, has a whole chapter devoted to accountability, including parliamentary accountability.

To anticipate the Minister's response to the amendments, of course the document does not yet reach conclusions because it is a consultation inviting responses. In the part about parliamentary accountability, the document sings the praises of the Select Committee system and the Treasury Committee in particular. My hon. Friend the Member for Wallasey had to pop out, but we have at least another three members of the Treasury Committee in the room, and I am a former member of it. There is no doubt that it is an esteemed Select Committee, which we all accept does a great job in this House, but the work of that Committee is very stretched. It has to cover a huge amount of business: not only banking and financial services more generally, but taxation, fiscal policy and everything else that the Treasury does.

I do not want to be unfair, but when I read that part on parliamentary accountability, I found it hard to escape the conclusion that it was written to give the impression that not a lot should change—the system we have at the moment is just tickety-boo; it is just fine. The underlying assumption seems to be that we can take this huge exercise in onshoring—this large-scale set of regulations, directives and all the rest of it—expand in a very significant way the role and remit of our regulators, and just tack that on to the present framework. I hope the Minister does not think I am being unfair, but that is the impression that I got when I read the future regulatory framework review.

3 pm

Just to help the Minister out, I will quote a bit from the review. Paragraph 3.18 says:

"The government thinks that the long-established scrutiny mechanisms referred to above will continue to be effective in holding Ministers to account for the work of HM Treasury and the financial services regulators."

There we are. We have a great system that is anchored around the Treasury Committee, and the Government are saying they think that will be adequate. The review encourages us by saying:

"There are two key reasons why Parliament may wish to focus on the select committee system when considering its future approach to Parliamentary scrutiny of financial services policy."

It lays those reasons out in paragraphs 3.20 and 3.21, but I am not sure that simply saying that we have a great system at the moment, and that it can continue, is really appropriate to the task.

The idea has been floated outside the Committee—I think it was either on Second Reading or perhaps during the Chancellor's statement on financial services a couple of weeks ago—that there be a specific Select Committee on financial services. There is precedent for that in Parliament, in the European Scrutiny Committee. Its members have spent many happy hours scrutinising the detail of various EU directives—in fact, some of them have spent many happy years doing so. Here, however, we run into the issue of the scope of the Bill, because it is my understanding that a Government Bill such as this, even it were to be amended by the Opposition on its way through the House, cannot tell Parliament which Select Committees to have.

The idea of a specific Select Committee on financial services may well have merits, and it might even be something that the Government come to favour, but my understanding is that the establishment of such a Committee would be a decision for Parliament—it would not be something that we can mandate by legislation. I am not entirely sure about that, but that is my understanding of the boundaries between a Government Bill and what Parliament will decide. Amendment 26, which I tabled, deliberately does not specify which Select Committees should be involved. That is a debate that will continue. It might be something that the Government eventually recommend or say they favour, but it would be for Parliament to decide which Select Committees to establish.

I want to make it clear to the Committee that although we might think there is merit in the idea of a Select Committee on financial services, the amendment before us does not mandate the creation of a new Select Committee. It is deliberately silent on the issue of which Committee should be involved in such work. Instead, it is focused on what should be considered by a relevant Select Committee, and on when in the process that consideration should take place.

The "what" is the part 9C rules, which are made under schedule 2 of the Bill—the rules governing investment firms that are regulated in this way by the FCA. Those are the rules to which the new accountability framework that we have been debating applies. That is made clear in proposed new clause 143G of the Bill, which states:

"When making Part 9C rules, the FCA must, among other things, have regard to—

(a) any relevant standards set by an international standard-setting body,

(b) the likely effect of the rules on the relative standing of the United Kingdom as a place for internationally active investment firms to be based or to carry on activities, and

(c) any other matter specified by the Treasury by regulations."

Proposed new clause 143F makes it clear that:

"The FCA must publish a list of all Part 9C rules in force".

That is the "what" that we are talking about here. It is set out on page 62 of the Bill, in the early part of schedule 2.

I come now to the "when". When should a Select Committee be involved? When should a parliamentary role kick in? This is actually at the heart of the amendment. It is true, of course, that the chief executives of the PRA and the FCA, plus the Governor of the Bank of England, appear periodically before the Treasury Committee. However, the regulators probably do so at most once or twice a year, and there is no onus on them to appear before a particular regulatory decision is taken or a particular set of regulatory rules come into force.

The amendment seeks—without being prescriptive about the Select Committee involved—to give the Select Committee system a role before final decisions are taken. I tread carefully here, given the debates that we have had in this House in the past few years, but there is an example of this: the ECON Committee, the European Parliament's Committee on Economic and Monetary Affairs, has played this role for a number of years, and it is regulations approved through that process that we are onshoring through the Bill. Its role is therefore somewhat different from that of the Treasury Committee, or any other Select Committee, in that it considers regulations in draft before they are finalised. That is important, because it allows public interests to be represented and considered before a decision is taken. The important part of the amendment is not so much what Select Committee, but when in the process Parliament should be involved.

If we do not have a process that pushes for parliamentary involvement before a decision is made, we will end up in the paradoxical situation that, after onshoring all this regulation in the name of taking back control, we end up with less scrutiny of these kinds of regulations than we have had up until now, or at least up until January this year, when we at least had British MEPs on the ECON Committee, as well as MEPs from many other countries. There was a role for elected representatives in that powerful parliamentary Committee as it considered and commented on these regulations in draft. Replacing that with a system in which successor regulations can be produced by UK regulators without any prior parliamentary involvement would mean that the onshoring process lost an important part of the parliamentary process. That would be a paradoxical outcome in an exercise that is supposed to be driven by taking back control.

Wherever we stood on that issue, taking back control was understood to mean taking control back to the UK Parliament, not replacing European parliamentary input with UK regulator control, with their perhaps making one or two appearances before Parliament after the decisions had been taken. That is why we believe that it is important to empower Parliament in this new system, rather than onshoring these regulations in a way that results in the public, consumer organisations and, indeed, elected parliamentarians actually having less of a voice over these things while they are in the development stage than was the case in the past. It is to avoid that paradoxical outcome that we tabled these amendments, to try to ensure a strong Select Committee role while regulations are being developed, allowing representations to be made during that development rather than simply after the fact.

Stella Creasy: As this is my first speech, let me say how fantastic it is to serve under your chairmanship, Dr Huq—none of us ever says anything other.

I rise partly to presage what I am sure the Minister knows is coming, given our previous correspondence on my concerns about existing financial regulation in this country and where the voice of the consumer is heard in that. I am sure he has looked avidly at some of the new clauses that I have tabled, which seek to get at that and which I note will come much later, in the shape of new clauses 15, 18, 21 and 23.

The shadow Minister has set out clearly how amendment 22 reflects those concerns. Again, where in the new financial regulatory regime being brought in by the Bill will the voices of our constituents be heard? The shadow Minister has focused on the consequences of leaving the European Union and the lacuna that will be created in terms of financial regulation by the Bill if we do not have that clear commitment with the Treasury or any other financial body to look at Select Committees and the role they might play. I want to focus on the other end of that telescope and what it has been like to seek to give consumers voices within the existing regulatory framework, what lessons that might offer us in the future regulatory framework and why involving Select Committees might be a way forward.

I am sure the Minister would say that working out how we make sure our constituents are heard is a work in progress. We talked this morning very strongly about the impact of financial regulation on people's everyday lives, the financial crisis and what could be learned from that. Many of us will have seen among our constituents people whose lives were decimated when financial institutions were found wanting and how that has driven the concerns about consumer protection in the wider work of the FCA. My concern as a Member of Parliament who has long had an interest in personal debt in this country has been about how that conversation is part of those bigger questions.

As I mentioned this morning, often we look for specific issues when it comes to consumer voice and financial regulation. On the wider impact, it is almost a given that somehow regulators will think about consumers. The reality is that over the past six or seven years of having the Financial Conduct Authority that has not always been the case. The Bill gives those regulatory bodies more powers. As the shadow Minister has pointed out, it removes one of the mechanisms for consumer voice through the democratic process within the European Union. Therefore, it is right that we ask how we replace that and whether there are gaps in what has happened to date that mean it is even more important, when asking whether the financial regulators are living up to the issues we might want them to have regard to, that that consumer voice is being heard in that process.

Amendment 22 is an eminently sensible idea to say, "Hang on a minute, where there had been previous scrutiny and challenge from democratic institutions, we need to replicate that within the UK Parliament." It comes from that perspective of saying that it is in everyone's interest to have that check and balance because it has been of benefit under the previous regime and, under that regime, there has been too narrow a consumer voice. I am not going to prosecute that argument in full today, because I am going to save it for the Minister for the new clauses that I have put down and how I think he can do that. I can see his disappointment already. However, I argue that it is worth looking at where the Select Committee process can add value to financial regulation in this country because, so clearly, it is our constituents who have paid the price when financial regulation has not looked at consumer risk and has not been able to ask questions before a crisis happened.

Many of the issues that our Treasury Committee, for example, as one body that may be involved in this, has looked at have come from our constituents raising concerns and a recognition that something might be on its way. Many of us would argue, and I suspect the Minister would agree, that sometimes regulators have been slow to react because they have been trying to balance the needs of the industry with questions about whether interference might cause more harm. The amendment is a way of getting that right, of having a place where those conversations could take place around financial regulation with a regulator that now has much more extensive powers than previously. It is a way of making sure that, as a democracy, we have a space where we can raise those concerns before problems happen.

When we get to the new clauses I have tabled, one of the concerns I will raise is where we see other regulators—in particular, I think of the financial ombudsman having to intervene where our financial regulators have not been able to do their job around supporting and protecting consumers, and so the ombudsman has picked up the pieces. Under the model we have coming forward in this Bill, it is not clear to me, without the involvement of Select Committees, where those conversations could take place, apart from with the financial ombudsman. Again, we are waiting until institutions potentially fail and organisations can pick up the pieces for that consumer voice to be heard.

3.15 pm

I would argue that the amendment is a very regulator and industry-friendly way of doing things, because having those conversations is good for doing good business. One of the principles I am sure the Minister will agree with is that good regulation is in everybody's interests. Active regulation that makes sure we have a fair, competitive and protected environment—the higher standards we are all talking about—does require explicit scrutiny. It requires not presuming that everybody knows what each other is doing.

It also requires asking whether there is information that can be gained from our constituents. We can all think of the banking crisis, and the kind of information we were getting in our surgeries could be brought to Select Committees and form part of understanding whether the Financial Conduct Authority is applying its role in due course.

I think of the debates we had when I was first elected over a decade ago about the then Office of Fair Trading—*[Interruption.]* Indeed, it has been that long; I am almost edging into grandee territory, but not quite. At the time we looked at the Office of Fair Trading, there was a recognition that information was coming through in Select Committee debates that was not being picked up by the Office of Fair Trading. That was a function of the fact that the Office of Fair Trading was not the appropriate regulatory body for some of these financial procedures.

If the Minister will not accept this amendment, how will he address the point raised by my right hon. Friend the Member for Wolverhampton South East on the Front Bench about the lacuna created by leaving the European Union and the democratic scrutiny that came from the Committees there? There are also the lessons that we have to learn from the last six or seven years about whether those early-warning systems that involve consumers, and those early-warning debates that can happen in this place, can be part of that new regulatory regime?

Otherwise, the Minister is almost setting up the FCA to fail, because he is asking it to be judge and jury of its own ability to deliver on competing objectives. They are sometimes competing objectives, and that is right—there can be a concern for competition and a concern for consumer protection that overlap, and there can be a concern for competition and a concern for consumer protection that stand against each other. However, without some sort of forum where the consequences can be teased out, information can be brought and democratic scrutiny can be part of the conversation, that gap is not filled. It will fall to the Minister or his successors or to the FCA to be judge and jury of their own homework. As we have seen in the past—I have no doubt we will see this again—that can be a very dangerous position to be in. We can have the groupthink that people talk about, where everyone agrees that everyone is probably doing the right thing, without really recognising that the wrong thing is coming up very quickly.

The financial scandals that our constituents have had to pay the price of tell us that we have to get this right. I look forward to hearing from the Minister that he has ideas about how that democratic scrutiny and engagement can be part of a competitive, high-standard environment in the UK and about the role that Select Committees could play in that.

Alison Thewliss: I very much agree with the proposals brought forward by the official Opposition. I congratulate them on their drafting and having found a way to put these amendments forward. Our attempt at this comes in new clause 32, and I will discuss that a bit further when we eventually get to it.

I agree that it is vital that there is scrutiny of these institutions and these powers. It is surely unacceptable that the Government have made so much play of taking back control from the EU only to hive it off to regulators because it is far too terribly complicated for us parliamentarians to worry our sweet heads about. That is not acceptable. That is not the way that it works in the European Union, and it certainly should not be the way Westminster operates. We should trust ourselves and our colleagues slightly more to do that scrutiny. If European parliamentarians, some of whom are now in this place, can do it, we can certainly look at a way that this can be done and that accountability can be taken for these powers.

I agree with those who have said that the Treasury Committee is stretched in its business. Having had a brief discussion yesterday in our pre-meeting about the sessions to come in the weeks and months ahead, I can tell the Committee that those sessions are already very full, running at two sessions in most weeks. We are certainly being kept very busy with all the important things our constituents bring to us, the responsibility the Committee has to scrutinise the Government and all the other things the Committee wants to do. The logic of setting up a new Select Committee to examine these things is certainly very compelling to me, because it will need that specialist knowledge in addition to the heavy burden of work it might have.

I noted that the hon. Member for Hitchin and Harpenden (Bim Afolami) made a very good plug for this on Second Reading. I think his feeling is that it helps out the Government to have this additional scrutiny. It helps everybody see what is coming, prepares the ground and tries to make decision making better, which should be in the Government's interest—trying to get to the right thing for all our constituents and for the financial services sector as a whole.

So that is important, and we should have no less of a role in all this than MPs currently have. I draw the Minister's attention to the evidence given to the House of Lords EU Financial Affairs Sub-Committee, whose reports I am sure he is an avid reader of, for International Regulatory Strategy Group, which also recommends enhanced parliamentary accountability and scrutiny. Its suggestion is a new system of Committee oversight in not just the Commons but the Lords, as we suggest in new clause 32.

The group has a series of principles it thinks such oversight should stand to, such as it being cross-party and apolitical—those are the principles of Select Committees, but it is important that we look at this. It mentions the ethos of the Public Accounts Committee in the way it goes about its business in scrutinising regulatory authorities. It also believes that oversight needs to be authoritative and expert, building up expertise within Committees, that it needs to be risk-based and mainly ex-post, and that it should be open to stakeholder input, which is incredibly important. We all know Select Committees do that; they take evidence and they have good records of bringing in expertise and evidence from people, but they need to be able to use that evidence in a practical way to inform the best strategy and best way forward as we take these powers back.

I very much recommend to the Minister the evidence given by the IRSG. What is he doing to meet this challenge of the "accountability deficit", as the Finance Innovation Lab put it? We cannot have a situation where more powers are coming back, yet we give them away. That is certainly not what was promised on the side of any Brexit bus, and it should not be the way we go forward. As the honourable grandee, the hon. Member for Walthamstow, said, it stores up a risk that we do not see something coming, that we have not identified a problem on the horizon and that we all end up in a bit of a crisis because we did not have the opportunity to scrutinise properly, to look at the regulations as they come forward and to ensure we do what is best for our constituents and the wider economy. There is logic in having some form of Committee to look at this, in whichever format the House wants to bring that forward. It is essential that that scrutiny exists and that it is at least as good as what was done in the European Parliament.

John Glen: I am very pleased to address the points raised by the right hon. Member for Wolverhampton South East, the hon. Member for Walthamstow and the hon. Member for Glasgow Central. I have listened carefully to what they had to say, and their remarks go to the heart of the distinction between the provisions of the Bill that we are scrutinising in Committee and the broader questions around the future scrutiny mechanism, and the necessity to ensure that we do not undermine the legitimate and appropriate scrutiny by Parliament of our regulators.

It is critical that we ensure sufficient accountability around the new rules of the UK's financial sector. Capital requirements for firms are extremely detailed and technical. It is right that we seek to utilise the expertise of the regulators to update them in line with international standards.

In return for delegating responsibility to the Financial Conduct Authority, this Bill requires it, under proposed new clause 143G of the Financial Services and Markets Act 2000, to publish an explanation of the purpose of its draft rules and of how the matters to which it is obliged to have regard have influenced the drafting of the rules. The Bill introduces a similar requirement for the Prudential Regulation Authority, under proposed new clause 144D of the Financial Services and Markets Act.

These matters concern public policy priorities that we consider to be of particular interest to Parliament. I have looked carefully at the amendments proposed by the right hon. Gentleman, and the amendments envisage Select Committees reviewing all investment firms prudential regime and capital requirements regulation regulator rules before they can be made. Under that model, Parliament would need to routinely scrutinise a whole swathe of detailed new rules on an ongoing basis. That is very different from the model that this Parliament previously put in place for the regulators under the Financial Services and Markets Act, where it judged it appropriate for the regulators to take these detailed technical decisions—where they hold expertise—within a broader framework set by Parliament.

It should not go unnoticed that, if Parliament were to scrutinise each proposed rule, the amendment does not specify a definite time period in which any Committee must express its view on them. That could bring a great deal of uncertainty to firms on what the rules would look like and when they would be introduced. That makes it more difficult for these firms to prepare appropriately for these changes. Ultimately, there is currently nothing preventing a Select Committee, from either House, from reviewing the FCA's rules at consultation, taking evidence on them and reporting with recommendations. That is a decision for the Committee.

My officials have discussed this amendment with the regulators, and they have agreed that they will send their consultation draft rules to the relevant Committee as soon as they are published. The FCA and the PRA both have statutory minimum time periods for consultation and will take time to factor in responses to consultation—so this is not a meaningless process—providing a more than reasonable window within which the Committee can engage the regulators on the substance of the rules, should it desire to.

The Government agree that Parliament should play an important strategic role in interrogating, debating and testing the overall direction of policy for financial services, while allowing the regulators to set the detailed rules for which they hold expertise.

Before I conclude, I would like to address the point the right hon. Gentleman made concerning the document that was published a month ago on the future regulatory framework, and to address the supposition he very courteously made that, somehow, the Government believed that everything was fine and little needed to change.

The purpose of this extensive consultation is to do what it says: to consult broadly to ensure that, through that process, the views of industry, regulators and all interested parties and consumer groups are fully involved, such that, when we then move to the next stage of that process—I would envisage making some more definitive proposals—it would meet expectations on a broader and enduring basis. This Bill is about some specific measures that, as I explained earlier this morning, we need to take with an accountability framework in place, but I do not rule out any outcome.

The right hon. Gentleman made some observations about the prerogative of Government over mandating Parliament and Select Committee creation. I think we are some way away from that. We want to do these things collaboratively and end up with something that is fit for purpose, and I recognise the comments he made about the resourcing of such Committees with respect to the role they would play.

I do believe that this scrutiny process, as set out in the Bill, is extensive, and, for the reasons I have given, I again regret that I must ask the right hon. Gentleman to withdraw this amendment.

Mr McFadden: I cannot resist the irony of pointing out that the Government are resisting what could be termed the "take back control" amendment and do not want to add it to the Bill. There are many illustrious Members of this House we could name this amendment after; they have been arguing to take back control for many years.

The Minister said that the amendment would cause a lot of uncertainty; that it might be too much work; that it might require a Committee—whichever Committee it was—to look in too much detail at rules, when it would probably be more concerned with the broad direction. He also pleaded with us to allow the consultation to play out.

There is a serious point at the heart of this about the sovereignty agenda. There will be some kind of consequence at some point, possibly a backlash, that will draw attention to how this is done and the new powers that the regulators have. At that point, people will ask, "What was Parliament doing? What role was Parliament playing?"

3.30 pm

On this occasion, I am not sure that the amendment is perfectly drafted or that it does things in the best way, so I will not press it and I will allow the consultation that the Minister has referred to to play out. The issue of Parliament's role in this new world will come back at some stage, perhaps on Report or when the Bill goes to the other place, but, for today, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

John Glen: I beg to move amendment 1, in schedule 2, page 76, line 31, leave out "143O(4), (6) or (8)" and insert "143O(3), (6) or (8)(b)"

This amendment corrects a cross-reference to new provisions inserted by Part 1 of Schedule 2.

This is a technical amendment that corrects a cross-reference from section 395 of the Financial Services and Markets Act 2000 to new section 143O, as proposed in schedule 2.

Amendment 1 agreed to.

Question proposed, That the schedule, as amended, be the Second schedule to the Bill.

John Glen: Investment firms have a significant role to play in enabling investors to access financial markets, but the current prudential framework that applies to FCA investment firms was made for banks, which is why we need a new bespoke investment firms prudential regime. Schedule 2 contains relevant provisions that enable the FCA to implement a tailor-made prudential regime for non-systemic investment firms.

The new regime will set out new capital and liquidity requirements that will ensure that firms can wind down in an orderly way without causing harm. The right hon. Member for Wolverhampton South East and the hon. Member for Walthamstow are rightly concerned about consumer harm, so I draw their attention to the fact that the FCA will have to set those requirements in relation to the risks that firms pose to consumers, as well as the integrity of the financial system.

The FCA will also be required to make rules for parent undertakings of investment firm groups, because appropriate regulation and supervision are as important at the group level as at the individual firm level. Parents, as heads of the group, should be held responsible for the prudent management of the group.

[John Glen]

It is right that specific rule-making responsibilities should be delegated to the FCA as an independent expert regulator, but those responsibilities must come with enhanced accountability. Schedule 2 requires the FCA to have regard to a list of important public policy considerations when making its rules in relation to the new investment firms regime, including any relevant international standards and the relative standing of the UK as a place for internationally active investment firms to carry on activities. To support scrutiny, the FCA will need to report publicly on how its consideration of those matters has affected its decisions on the rules in relation to the IFPR.

The FCA will also have to consider the impact on financial services equivalence, both by and for the UK, and consult the Treasury on that. Consulting the Treasury ensures that the FCA has appropriate accountability for technical choices that might have an impact on firms, while recognising that the Government retain responsibility for international relations and therefore equivalence. These three considerations are those that we have deemed to be immediately pertinent to the new investment firms prudential regime today.

However, as I have mentioned previously, the accountability framework is meant to reflect the changing context. That is why the Treasury will have power to add additional considerations, which would be done following discussions with the regulators and industry, and following parliamentary scrutiny. That is the overall framework that will allow greater scrutiny and transparency, and provide the direction the FCA will take in implementing the new regime in the UK, while rightfully leaving the detail to the experts.

In the longer term, any wider deregulation will need greater debate and the proper scrutiny of Parliament. The Government intend to address that part through the future regulatory framework, as I have discussed, which is now out for consultation. I therefore recommend that that this schedule stand part of the Bill.

Question put and agreed to.

Schedule 2, as amended, accordingly agreed to.

Clause 3

Transfer of certain prudential regulation matters into PRA rules

Mr McFadden: I beg to move amendment 23, in clause 3, page 4, line 31, at end insert—

"(9A) The Treasury must, within six months of making any regulations under this section, prepare, publish and lay before Parliament a report setting out—

(a) the reasons for the revocation of the provisions of the Capital Requirements Regulations being made under the regulations;

(b) the Treasury's assessment of the impact of the revocation on—

(i) consumers;

(ii) competitiveness;

(iii) the economy."

This amendment is intended to ensure the Treasury reports to Parliament on the impact of divergence from CRR rules.

In debating this amendment and this clause, I am hoping the Minister will be able to explain the relationship between this clause and clause 1. Clause 1 specifies the certain type of investment firms to which CRR rules need not apply, and he was at pains to say that that was a specific, targeted approach, but clause 3 looks to range very widely on the Treasury's powers to revoke aspects of the capital requirements regulation.

The list in clause 3(2), on page 2 of the Bill, has many different headings, including business lends such as mortgages, retail investments, equity exposures and so on. Without getting into the detail of the technicalities of the Basel rules, not all capital is treated as equal. A pound is not just a pound. It depends against which line of business it is weighted. For example, financial institutions will argue that mortgages pose a particular category of risk, probably quite low risk, compared with another line of business where they may be lending against business loans, commercial property or some other activity. The Basel rules do not judge all these activities equally and they apply what are known as risk weights to them.

The clause allows the Government pretty sweeping powers, as far as I can see, to depart from and to revoke aspects of the capital requirements regulation, against all these different types of business. I would be very interested for the Minister to set that out and clarify it.

Through this process, the capital ratios are allocated. Again, I draw the Committee's attention to the important paragraph (m) at the bottom of page 3 of the Bill, the leverage ratio. That is described in the notes on clauses as the "backstop." I hope that that term does not cause too much excitement in the Committee. Like all backstops, it is there in case the list from paragraph (a) to paragraph (l) does not prove sufficient.

This particular backstop of the leverage ratio casts aside all this stuff about risk ratings. It takes the whole lending book and the whole lending business, and says that a certain proportion of capital must be held against the whole thing. It is a bit of an insurance policy in case the risk ratings do not do the job. It is true that the risk ratings are where this is open to all kinds of lobbying, as people will say that one line of business is less risky than another.

At the core of this is a debate between regulators who must consider the safety and resilience of the system as a whole, and individuals who will argue that if only they did not have to hold all this capital, they could lend more, stimulate more economic activity, and so on. That is the debate that takes place. Without wanting to go over all the ground that we covered this morning, the amendment asks for a report on the degree to which the divergence—the leeway powers, as we might call them—will be used, and the Treasury's assessment of the impact on the economy. As I said this morning, we believe it is important that such a report should consider the impact on consumers, because they do not want to be on the hook for decisions that allow capital levels to fall too much, thereby weakening the resilience of the financial institutions in question.

This is a "lessons learned" amendment. It is important that the debate about capital ratios does not take place altogether in the dark—that it is exposed to what my hon. Friend the Member for Erith and Thamesmead called the daylight of scrutiny—and that we do not hear just from financial trade bodies. If they all genuinely have no intention of lobbying for a less safe system, have no desire for a race to the bottom and want the highest possible global standards on regulation, they have absolutely nothing to fear from this amendment. It does no more than ensure that we have reports from the Treasury on what happens when these powers are passed to UK regulators, and what happens if the divergence that is facilitated in clause 3—in this long list on pages 2 and 3 of the Bill—takes place.

Alison Thewliss: I agree very much with what the right hon. Gentleman has said. It is important that we are kept up to date, in the absence of other scrutiny mechanisms. At the very least, within six months of Royal Assent, we should find out the impact of any revocations. The point was well made about consumers, because in many ways they are very far away from where this Bill is, and they may not see any issues that are coming up. It is important that we, as parliamentarians, are sighted on what those issues might be and have some degree of scrutiny over what happens with the regulations.

Stella Creasy: We are talking in quite abstract terms, but it is worth remembering that when Fannie Mae and Freddie Mac fell apart in America, consumers were the first to feel the repercussions that were felt around the world. This financial regulation comes in in the aftermath of that, because it is still going on. There are still people and families who are paying the price for what happened in the financial crisis. This is not about reheating and repeating the arguments about who caused the financial crisis. It is about recognising that consumers in all our constituencies paid the price, first and foremost.

As others have said, when we think about financial regulations, it can feel quite technical, distant and obscure because of the language we use, but let us remember back to those days. Many years ago, when I first came into Parliament, we were dealing in 2010 with the aftermath of the financial crisis, and it was a very painful crisis for many. Everybody asked why we did not see what was happening. Why did we not see it coming? How could we not have seen that banks were over-leveraged? How could we not have seen that mortgages were being resold in the subprime market? The truth was that it was a closed shop, so everybody was marking each other's homework and saying, "I am sure this will be fine." This seems to me the mildest of amendments, simply asking whether we have the information to ensure that such an occurrence could never happen again, when we are talking about something as simple as the capital requirements that banks and financial institutions should have. After all, that is exactly what happened in 2008: everybody leveraged each other, so the capital was gone, and when the roundabout stopped, it was our constituents who paid the price. I know by now, on the first day, that Ministers will think we are a broken record, but to ask the Treasury simply to provide that information and to look at it from a consumer perspective does not seem an unfair thing to do, given the history and the legacy of this that we have seen for so many in our constituencies.

3.45 pm

I would like to push back a little on the Minister, because in the debate on the previous amendments he said, "Well, these are the technical reasons why these proposals for scrutiny would not work," but he has still not set out an adequate alternative. If he does not want to provide reports or have that modicum of accountability on how any divergence might affect our constituents, it would be very helpful if he set out on the record what he sees as the alternative accountability metrics for our constituents. Then we can go back to those who might still be in rented accommodation because they lost their properties, because their jobs went, because entire industries ultimately went, because of the financial consequences for us as a country in paying back those debts, and say, "It's okay. With this new Financial Services Bill, we have put in protections to ensure that we can never be in a position again where, after the fact, everybody turns round and says, 'Well, of course we should have seen that coming. Of course we should have seen the problems that were coming with the subprime market,' and yet nobody did because there was not that adequate financial regulation, there was not that scrutiny and, frankly, there was not that consumer element." The industry was deciding what risk our constituents could take, rather than our constituents' having somebody speak up solely for their interests.

If the Minister does not want to accept this amendment, which is simply about producing a report and checking that the homework is accurate, can he set out what he is going to do to ensure that none of our constituents ever goes through one of those experiences ever again?

John Glen: In addressing this amendment, I want to start by saying that the Government are fully committed to ensuring that this greater delegation of responsibility to the regulators is accompanied by robust accountability and scrutiny mechanisms. To pick up on the point made by right hon. Gentleman about clauses 1 and 3, they amend the existing banking framework for different reasons. Clause 1 only removes FCA investment firms from the CRR. Clause 3 enables the implementation of Basel standards for the remaining firms, credit institutions and PRA investment firms by enabling the Treasury to revoke parts of the CRR that relate to Basel. That is so that the PRA can fill the space with its rules.

Amendment 23 seeks to add a requirement for the Treasury to assess and report on the impact of its revocations of the capital requirements regulation on consumers, competitiveness and the economy. However, I would argue that the emphasis is in the wrong place. The Treasury will only make revocations to enable the introduction of the PRA's rules. A stand-alone assessment of the provisions being deleted would not provide meaningful information for Parliament—it is unnecessary. Those revocations are to be subject to the draft affirmative procedure, so they will be explained to Parliament and Parliament will be able to debate their appropriateness before they are made.

I agree with the principle of scrutiny, but the emphasis should be placed on the PRA's rule making, and that is what this Bill does. The Bill includes provisions requiring the PRA to publicly report on how it has had regard to upholding international standards and relative standing in the UK, as well as facilitating sustainable lending. Those are in addition to the PRA's existing statutory objectives on safety and soundness of financial institutions and its secondary competition objective, so they overlap with the areas that the amendment attempts to address.

[John Glen]

The provisions in this Bill sit alongside existing provisions in the Financial Services and Markets Act 2000, which require the PRA to publish a cost-benefit analysis alongside its consultation on rules. That will provide Parliament and the public with the information required to scrutinise the PRA's actions. Therefore, the current provisions in the Bill, combined with those existing provisions in the Financial Services and Markets Act, already ensure that the information that Parliament is seeking will be in the public domain. The hon. Member for Walthamstow asked me to set out a vision, almost, for the conduct regulator with respect to the future operating environment. To some extent, that is deferred to the future regulatory review, but I will give her my view because this goes to the core of the future of financial services. We need an environment in which the regulator is accessible to consumer concerns. I recognise the work that she has done and the shortcomings that she perceives with the regulator's current dynamic. We need Parliament to be at the heart of scrutinising its activities. The legislation would give it an obligation to report, but then we need meaningful scrutiny from Parliament.

The challenge is based on the work that the hon. Lady did after 2010—we came into Parliament at the same time—after which there was a rapid evolution in business models and new types of things. That is why I am delighted that Chris Woolard is doing a high-cost credit review and looking at some of the areas that she is engaged in, such as buy now, pay later. He is looking at that urgently so that we do not make the mistakes of the past and do not face some of the emerging challenges, in terms of behaviours—*[Interruption.]* She smiles. I suspect that she is not completely convinced by what I am saying about the provisions. We are resisting the amendment because in the narrow confines of what we need to achieve, with respect to the translation of these directives appropriately at the end of the transition period, that is distinct and different from an enduring solution. I look forward to her contribution to the regulatory framework review, because that will drive a meaningful discussion about how we achieve the sort of accountability that she and I want and think should be enhanced.

Stella Creasy: I am sure the Minister will have some delightful conversations about the regulatory framework that will keep many people wide awake for hours to come, but the two are not mutually exclusive. This amendment and this debate are about capital holdings.

Does the Minister recognise that what I said about what happened in 2008-09 is directly linked to this? We need to keep a tight eye on this, especially because of the global context in which it is happening. We cannot protect our economy and our constituents without some form of scrutiny and control. The Minister said that it is important to have parliamentary involvement, but he has just refused an amendment that would have brought the Select Committees into the process.

I am struggling to understand why in this instance, with this amendment and this requirement of the Bill, given the role of the FCA in overseeing capital requirements, the Minister feels that it would not be important to have the data, so that we are not in a position in which that subprime lending happens again in a different guise. If we have learned anything—this is not just about the high-cost industry—it is that these models evolve. It is like water: exploitation in the system will find a way through unless we have robust procedures. It is possible to have both this report and a regulatory framework; the two are not mutually exclusive. If there is not a reporting provision, the Minister leaves a gap until one is in place.

John Glen: This legislation provides the regulators with the responsibility and the reporting obligation to Parliament. What the hon. Lady has done is make an explicit relationship between conduct failure and capital requirement decisions. Decisions about the overall framework for accountability for the regulators are embedded within this Bill. The point of disagreement between us is whether there are sufficient obligations, in terms of reporting and scrutiny, for these narrow measures. We obviously disagree. I am trying to signal that, more broadly, on the wider issues of the future dynamic among Parliament, the Treasury and regulators, there is scope for significant review, and appropriately so given the changing nature of where these regulations are coming from. I do not have anything else to say.

The Chair: You both look too young to have been here all your adult life.

Mr McFadden: The Minister said that he does not want to accept the amendment because he thinks it is in the wrong place. I would find that a little bit more convincing if I really thought he would accept it if he thought it were in the right place, but so far today, Members on the Government Benches have steadfastly voted against this kind of reporting back and reviewing of things to do with the capital rules, as well as the other amendments tabled. I am sure that the Minister has read the whole amendment paper, and will have seen that I have tried to come at the same issue from a number of different angles and different timetables. This morning, we pressed to a Division an amendment asking for a report after three years, which was defeated. I will not press this one, Dr Huq, but we will be coming to other, similar amendments very soon. I therefore ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

John Glen: The 2008-09 financial crisis led to significant economic hardship. Since then, post-crisis regulatory reforms set by the Basel Committee on Banking Supervision have supported financial stability, which underpins our economic prosperity. We in the UK intend to uphold our international commitment to the full, timely and consistent implementation of these reforms, alongside other major jurisdictions, and clause 3 creates the space in legislation for the financial regulator—the Prudential Regulatory Authority—to implement the remaining Basel standards. Like our approach to investment firms, our intention is to delegate the responsibility of implementing these to the PRA with enhanced accountability, as I have described. This is the right thing to do: the PRA has the technical expertise and competence to implement these post-crisis reforms as they should be implemented.

However, in delegating this responsibility, this Bill ensures that checks and balances are in place. First, clause 3 ensures that we transfer only some elements of the capital requirements regulation, or CRR, to the PRA, and that the extent of the Treasury's powers to delete will be constrained to those areas of the CRR that are necessary to implement the Basel standards and ensure the UK upholds its international commitments. Secondly, this clause ensures that the deletions the Treasury makes take place when it is clear that adequate provision has been made by the PRA to fill the space. Those deletions will also be subject to the draft affirmative procedure, providing the opportunity for Parliament to scrutinise the Treasury's actions. The clause also allows the Treasury to make consequential, supplementary and incidental deletions to parts of the CRR. This is to ensure a coherent regime across the CRR and other PRA rules, amounting to a clear prudential rulebook that industry can follow.

Further, clause 3 enables the Treasury to make transitional and savings provisions to protect cliff edges from the deletion of certain provisions on the operations of a firm. This will allow the Treasury to save permissions already granted by the PRA, to modify capital requirements and avoid the need for firms to reapply for those permissions under new PRA rules where they are being replicated in the rulebook as a result of the Bill. This clause is essential to the delivery of our international commitments, and I therefore commend it to the Committee.

Mr McFadden: I do not want to force the Minister to go over the same ground again and again, but I am just trying to fully understand this. He used a phrase something like "the clause allows for departure from the CRR in order to implement Basel", if I have understood him correctly. I am not trying to be obtuse, but I want him to explain fully to the Committee what that means. Why do we have to "depart" from the capital requirements regulation in order to implement the Basel rules? On the face of it, the list contained in clause 3 is a very wide list of things from the CRR that the Treasury is taking powers to revoke, and I am therefore trying to fully understand what the effect of this clause is. Is it just to implement Basel, or does it give a wider, ongoing power to the regulator to change capital ratios against these lines of business that are set out in the amendment? I genuinely want to understand that.

My second question is about the potential impact on risk weightings and how capital ratios can look. There is a potentially perverse effect here—almost a mathematical one. Because these things have risk weightings attached to them, if the regulator makes a decision to reduce that weighting—from 50% to 40%, for example, or whatever it is—but the bank still holds the same amount of capital against that stream of business, it has the effect of making the bank look more safe and secure, even though it does not have any more capital—even though nothing has changed.

4 pm

It is possible for the amount of overall capital held to fall and, if the risk weighting also fell, that could still make the bank look more secure, even though it had less capital than it had at the start of the process. How will the Government guard against the process of divergence against that line of business set out in the long list in clause 3(2) from resulting in that perverse effect of reducing the risk weightings and making the banks and the institutions look more secure, when actually the amount of capital that they have is the same as they had in the beginning?

John Glen: I thank the right hon. Gentleman for his points. On the first point about why we are deleting what we are deleting, we are deleting elements of the capital requirements regulation to the PRA so that it can implement the provisions of capital requirements II, which the EU is commencing, in the appropriate way for our firms—that is basically it. The EU is on a journey of implementing CRR II, and we need to do what is appropriate for our firms, as I have discussed.

Mr McFadden: And the future?

John Glen: The future in terms of the evolving rulebook of the EU and other jurisdictions and how we seek to do that here will be subject to the future regulatory framework. We cannot anticipate the future evolving regulatory direction of new directives that have not yet been written elsewhere. What we have to do is to build the right framework for origination of rules in the Treasury and from the regulators, with the right accountability framework in place.

The problem we have conceptually in this discussion is that we are coming out of an embedded relationship in which we have auto-uploaded stuff that we have discussed, crudely, elsewhere. We have a legacy set of issues over which we have not had complete control this year that we are obliged to implement, but as we approach the end of the transition period, we have to make provision for things that actually make sense and we want to do anyway, in an appropriate way.

The driver of the right hon. Gentleman's remarks— I understand why—is this desire to scrutinise the appetite for a sort of ad hoc, and I do not mean to be pejorative, but almost opportunistic, divergence, when what we are trying to do is to enable the regulator to do what is appropriate for a set of entities that will not naturally conform to the enduring direction of travel of the CRR II within the EU, because of the different nature of our firms and, as we have discussed, the different treatment of capital that is appropriate, given what they are actually doing vis-à-vis banks.

Secondly, he asked some detailed questions about risk weight.

Mr McFadden: Before the Minister moves on to the potentially perverse effects, does clause 3 simply give the regulators the powers to implement Basel 3.1, or does it give the regulator broader powers to change risk weightings against those lines of business in ways other than under Basel 3.1?

John Glen: My understanding is that the licence to operate given to the PRA is to make it consistent with Basel 3.1, in the context of the evolving rules that are being implemented elsewhere, but the notion that there is a single downloadable format of the Basel 3.1 rules in every single jurisdiction is a false proposition. Every regulator in different jurisdictions will do that in different ways. It is important, therefore, that whatever decisions they come to around the specific decisions on different entities will be published and scrutinised, such that it

[John Glen]

could be justified against the international standing and the other factors that we have put in place as a meaningful accountability framework.

I am probably close to the limit of my capacity to answer further on this point, but I am happy to reflect further and to write to the right hon. Gentleman and make it available for the Committee, to clarify anything that would be helpful to the Committee.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clause 4 ordered to stand part of the Bill.

Clause 5

Prudential regulation of credit institutions etc by PRA rules

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

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

New clause 1—*Annual review of the CRR rules—*

"(1) The Secretary of State must, once each financial year, prepare, publish and lay before Parliament a review of the changes to CRR rules made by the PRA in the relevant financial year.

(2) The review must include an assessment of the impact of any changes to CRR

rules on—

(a) consumers;

(b) competitiveness; and

(c) the wider economy."

This new clause would require regular reviews of any departures from the current regime of capital requirements.

Mr McFadden: This is my third attempt to get the Government to commit to reporting on the impact of these measures. Clause 5 and the accompanying provisions in schedule 3 insert new part 9D into the Financial Services and Markets Act 2000. This new part 9D will empower the PRA to make changes to capital requirements regulation rules. Schedule 3 also sets out the accountability framework, which we have discussed quite a lot throughout the day.

New clause 1 is an attempt to understand and explain the effect of changing these rules. It calls for an annual review to be published of changes to the CRR rules and their impact on consumers, competitiveness and the wider economy. As with similar amendments, all of this is an attempt to ensure that we do not simply pass all these powers from the EU to UK regulators without having processes in place, making clear what the changes we are making do and giving Parliament a proper voice in debate over these matters.

As I have said in relation to other amendments that, as things stand, unless we strengthen the parliamentary side of this, we could end up having less input to these issues in the future than we do at present. All these capital rules are there for a reason. We have thrashed it out today. It is important that we have proper transparency and a full understanding of the consequences if we depart from these rules in a significant way in the future.

My hon. Friend the Member for Walthamstow described these amendments as mild. I think they are mild. None of them say even that we should not have any of these departures. They simply ask for some process to understand the effect of them, which is open to Parliament. That is what new clause 1 would do.

John Glen: I really respect the right hon. Gentleman's approach to this. It is very constructive. I accept his frustration with what I am saying, but I do respect his patience with me through this process. Each time, I will try to justify what we are doing.

This Bill enables the implementation, as the right hon. Gentleman understands, of the Basel standards. That will be done by deletion of parts of the capital requirements regulation that need to be updated, so that the PRA can make those Basel updates in their rules. As a result, we will see a split in this prudential regime, perhaps temporarily, depending on the end result of the future regulatory framework across legislation and regulatory rules.

The regime is already split in this way to an extent, with some rules for firms set directly by regulators and others contained in retained EU law or law that has originated in this Parliament, and it will continue to work in this way. However, we will seek to ensure that this is done as effectively as possible through clause 5. Clause 5 ensures that cross-references between legislation and PRA rules work properly on an ongoing basis. It also requires the PRA to publish an explanatory document outlining how it all fits together. Finally, the clause introduces schedule 3, which contains further detail to ensure that the regime works. As the elements contained in the clause help to ensure a workable framework for the UK to remain Basel-compliant, I recommend that the clause stand part of the Bill.

New clause 1 seeks to add an annual reporting requirement, as the right hon. Member for Wolverhampton South East said, for the Government to carry out and publish a review of PRA rules that implement the Basel standards, including an assessment of the impact of changes to the rules on consumers, competitiveness and the wider economy. The Bill will require the PRA to demonstrate how it has regard to several considerations: the international standards that it seeks to implement, the relative standing of the UK and the ability to finance businesses and consumers sustainably.

However, I regret that the amendment has the potential to duplicate the PRA's reporting duties. I respectfully contend that this additional annual reporting requirement is not necessary, because through the Bill the PRA will also be required to publish a summary of the purpose of the rules it makes when implementing the Basel standards and an explanation of how it has complied with its reporting duties. Furthermore, the Financial Services and Markets Act 2000 already requires the PRA to make an annual report to the Chancellor on its activities, including on the extent to which its objectives have been advanced and how it considered existing regulatory principles in discharging its functions. The Chancellor must lay that report before Parliament.

I therefore question whether the proposed review would really provide much more insight than what the current reporting arrangements already achieve. I have myself checked whether there are no reporting requirements and we are entering some sort of wild west environment, but I do not think that that is the case. The amendment duplicates efforts that are already in place. Ultimately, to require the Treasury to undertake such an assessment would undermine this delegation and the regulator's independence. I therefore ask the right hon. Gentleman not to move the amendment.

Mr McFadden: The Minister has given a pot 3 defence. I apologise for using that in-joke from this morning's session; I am happy to explain it to you later, Dr Huq. A pot 3 defence means that it is already covered. It is my pleasure not to move the amendment.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Schedule 3

Prudential regulation of credit institutions etc

Alison Thewliss: I beg to move amendment 40, in schedule 3, page 79, line 25, after "activities" insert

"in the UK and internationally".

This amendment would ensure the likely effect of the rules on the relative standing of the United Kingdom as a place for internationally active credit institutions and investment firms to be based or to carry on activities are considered both in terms of their UK and international activities before Part CRR rules are taken.

This is quite a modest amendment. The Bill is supposed to ensure that Scotland, the City and the rest of the UK remain internationally competitive but robustly regulated, as the sector and everyone beyond a few marketeer ideologues are looking for. The amendment seeks simply to ensure that the FCA has regard to the standing of the UK as a base for financial firms that operate internationally. It is a kind of reflection amendment. It is common sense. It is really a drafting amendment. There is not terribly much more to it.

John Glen: As I have said, the UK is committed to maintaining its high standards. We heard during evidence sessions last week that these high standards will not hinder the UK's ambition to remain an attractive place to carry out business. None the less, the Government want to ensure that our regulators have specific regard to these ambitions, particularly for international businesses, which bring jobs and innovation and, I believe, improve our economic prospects and prosperity.

The amendment aims to ensure that that is the case, and I welcome the intention, but I reassure the Committee that the Bill as drafted will deliver that. I highlight in particular to the hon. Member for Glasgow Central that subsections (1)(b) and (2) of proposed new section 144C to the 2000 Act requires the PRA to

"consider the United Kingdom's standing in relation to the other countries and territories"

that could affect where international firms

"are most likely to choose to be based or carry on activities."

I believe that that is adequate to address the concerns that have been raised.

4.15 pm

It is not entirely clear what the addition of the words in the amendment would deliver. We must be careful not to create ambiguity. The provisions as drafted are important instruction for the PRA to clearly understand the responsibility bestowed upon it. It is important that Parliament also has that clarity so that it can hold regulators to account. I am afraid that I must therefore ask the hon. Lady to withdraw her amendment.

Alison Thewliss: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr McFadden: I beg to move amendment 27, in schedule 3, page 80, line 8, at end insert—

"(7) The PRA must, at least once every five years, review the provisions of this section.

(8) The Treasury must lay before Parliament a report setting out—

(a) the outcomes of this review; and

(b) any changes the Treasury proposes to make as a result of this review.

(9) The Treasury may by regulations make any changes identified in subsection (8)(b).

(10) Regulations under subsection (9) may not be made unless a draft has been laid before and approved by a resolution of each House of Parliament."

This amendment would ensure there is a review of the accountability framework for regulators once in each Parliament and give it a role in approving subsequent changes to the accountability framework.

This will be my last attempt. I have tried to get reviews after six months, one year and three years; this is the attempt at once in every Parliament. Of all the mild amendments, this has to be the mildest. Once in every Parliament, we are asking for the PRA to review the provisions of proposed new section 144C in schedule 3, and for the Treasury to lay before Parliament a report setting out the outcomes of that review and any changes that it proposes to make as a result. I really think it reasonable to expect that as a minimum, given the sensitivity and potential combustibility of the provisions, which is why we have tabled the amendment.

John Glen: On a human level, I have found this process quite challenging, because my instincts are to try to accommodate the right hon. Gentleman when he sounds so reasonable and plausible. The amendment seeks to introduce a requirement to review the PRA's accountability framework for Basel implementation and, as he said, it would require the PRA to conduct a review every five years, which is the least demanding of his requests today.

It is right to ensure that the accountability framework is fit for purpose and up to date. Indeed, that is one of the aims that we want to achieve through the Bill: flexible and agile regulation. The Bill's purpose is to enable the implementation of the Basel standards, and the international deadline for Basel 3.1 reforms is 1 January 2023. By 1 January 2023, the bulk of Basel-related rules made as a result of the Bill should therefore already be published. The accountability framework that the Bill introduces for the PRA to make rules to meet Basel requirements relates only to the implementation of the specific so-called Basel 3.1 rules and does not

[John Glen]

relate to the ongoing prudential regulation of financial service firms that is being considered by the future regulatory framework review. The review is consulting on the important split of responsibilities between Parliament, Government and the regulators now that the UK has left the EU.

Reflecting the wisdom of the right hon. Gentleman with respect to the value of reviews, in that context a five-year review would clearly be appropriate. However, in the current context, it would be inappropriate to ask the PRA to report on an Act of Parliament given that the Bill already includes a more appropriate reporting requirement for the PRA, as set out in proposed new section 144D, that is adapted for the CRR rules. That requirement is to publish an explanation of how the matters in the accountability framework have impacted on the PRA's rules whenever it consults on and publishes final rules to implement Basel. That will directly attend to the logic and rationale for what it has done.

The amendment would also add a new power for the Treasury in relation to the accountability framework. The Treasury already has a similar power in the Bill to add additional matters for the PRA to consider. The power proposed in the amendment goes further, allowing the Treasury to amend the list, including removing matters from it. It is not clear to me why the Treasury should ever remove, for example, the requirement for the PRA to have regard to the Basel standards. Such matters are immediately pertinent to the prudential regime and would have been agreed by Parliament through the Bill process. Therefore, the existing provisions in the accountability framework already appear to achieve the aims intended in the amendment in the best way possible and, as such, do not need to change. For those reasons, I regret to ask the right hon. Gentleman to withdraw the amendment.

Mr McFadden: Is the Minister saying that if there were a Basel 3.2 or a Basel IV process—that is quite likely, because at some point there will be a revision to the capital rules because things change and the system has to evolve—somehow the part 9D provisions cannot be used? Are they only for Basel 3.1? That is the implication of his response. I would have thought that giving the regulator powers over all those areas would be applicable to future Basel revisions and not just this one. In other words, we are not making a regulatory snapshot; we are creating a movie. This is a genuine question: the part 9D rules must be applicable to any future revisions of the Basel process, too. If so, there is a strong case for a once-in-a-Parliament review of how that is going.

John Glen: Those rules will have regard to future Basels. The reporting mechanism we have and the accountability to Parliament when those rules are published is more immediate and comprehensive. My contention is that a five-year provision would be out of date because we would have done it by then. That is why I am apprehensive about the right hon. Gentleman's suggestion.

However, within the context of the future regulatory review—I cannot be bound on the outcome of that, because it is genuinely consultative—and what would be the appropriate reporting, there is a difference between short-term reporting on a particular measure or decision and a more fundamental review of the strategic dynamics of the relationship between the regulators, which we have seen evolve over decades. On the principle, there may be the need to have something like that. I am straining to be positive and constructive in my engagement with the right hon. Gentleman.

Mr McFadden: The truth is that there is no science about what is exactly the best timetable for reviewing these things. I am not pretending that one of the various timescales that we have mooted is perfect, and there is probably a legitimate debate to be had about that. However, as the Minister has just confirmed that we have given the regulator the power to make rule changes regarding future Basel changes on an ongoing basis—I am sure he is right about that—having a review and a report on this once every five years is a reasonable timescale to say what the impact of these things has been. I therefore wish to push the amendment to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 10.

Division No. 5]

AYES

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

NOES

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

Question accordingly negatived.

John Glen: I beg to move amendment 2, in schedule 3, page 84, line 19, leave out paragraph (b) and insert—

"(b) section 144D (explanation to accompany consultation on rules);

(c) section 144E(1) and (4) to (7) (exceptions from sections 144C and 144D)."

This amendment corrects the explanatory words in a list of provisions that apply to section 192XA rules that are not CRR rules.

This technical amendment corrects a reference to words contained in parentheses to make it clear that those words apply only to proposed new section 144D to the 2000 Act, and it adds the correct words in parentheses to the references in proposed new section 144E. The words in parentheses explain the scope of the clause.

Amendment 2 agreed to.

Schedule 3, as amended, agreed to.

Clause 6

Power to amend the Credit Rating Agencies Regulation

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

John Glen: The Basel standards include rules relating to credit assessments—also called external ratings—which some firms use to assign risk ratings. Risk ratings are used to determine the minimum amount of capital that must be maintained by a firm, and the right hon. Member for Wolverhampton South East has already drawn attention to this matter.

In the UK, credit ratings agencies, or CRAs, that issue credit assessments are regulated by the credit ratings agencies regulation, and the changes needed to the CRA regulation to implement Basel are minor. Consistent with the 1 January 2023 international deadline, however, the PRA has yet to issue its rules implementing the Basel 3.1 reforms, and it makes sense to consider changes to the CRA regulation as part of the wider 3.1 package of changes. Therefore, the clause gives the Treasury a power to amend the CRA regulation while requiring it to consider the Basel standards when that power is exercised. That confirms our intention to use the power only to implement changes stemming from Basel. The changes to the CRA regulation will help to ensure that the UK is fully Basel-compliant.

4.30 pm

Mr McFadden: I have a couple of questions, because credit rating agencies did not cover themselves in glory in the financial crisis, so I want to be clear about what clause 6 does and does not do with regard to them. How does the credit rating agencies regulation regulate them at the moment, and how will that be altered by the provisions in clause 6? For example, does clause 6 deal with the situation where a credit rating agency charges a fee to those who are asking for a rating and with the potential conflicts of interest involved in that process? That played out in the financial crisis, as anyone who has watched the movie "The Big Short" will have seen. The clause does talk about the regulation of the credit rating agencies, so I wonder if the Minister could explain a bit more how they are regulated and how that would be altered by the clause.

John Glen: I am happy to do my best. In terms of the changes and why they are not set out in the Bill, the changes that need to be made to the CRA regulations stem from "Basel III: Finalising post-crisis reforms"—the Basel document—which is part of the most recent Basel 3.1 package of reforms. Most of those have not been legislated for in the UK or the EU, and it makes sense to consider changes to the regulation as part of the wider implementation of the 3.1 package, which will be done through the future rules. They will be consulted on prior to the deadline.

The power to amend the regulation will be used solely to implement Basel 3.1. There are a number of minor amendments contained in that "Basel III: Finalising post-crisis reforms" document of December 2017. The two eligibility criteria that credit rating agencies need to satisfy are added. The power in clause 6 safeguards that intent as it requires the Treasury to have regard to the standards rather than making other amendments for unrelated reasons.

In terms of the other limited changes made in schedule 4 as part of the implementation of the UK regime equivalent to the EU's second capital requirements regulation, they again relate to earlier Basel III standards. I do not think I can answer with enough specificity to do justice to the right hon. Gentleman, so I think I will need to write to him on this matter.

In what I have said, I hope that I have explained the confines and drivers of the reform; the powers that we are giving to the regulator; and the consistency with which they will be exercised to the Basel 3.1 proposal. I have previously spoken about accountability for that. I need to write to the right hon. Gentleman to give more clarity, and I am happy to address the issue at further stages in the Bill's passage.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Schedule 4

Amendments of the Capital Requirements Regulation

John Glen: I beg to move amendment 32, in schedule 4, page 89, line 11, at end insert—

"11A (1) Article 500d (temporary calculation of exposure value of regular-way purchases and sales awaiting settlement in view of COVID-19 pandemic) is amended as follows.

(2) In the heading, omit 'Temporary'.

(3) In paragraph 1, omit 'until 27 June 2021,'."

This amendment removes the time limit on the availability of the derogation under Article 500d of the Capital Requirements Regulation.

This is a minor amendment. In 2017, as I mentioned, the Basel Committee on Banking Supervision introduced favourable treatment for firms in how they calculate the leverage ratio. The EU was due to introduce that treatment through its second capital requirements regulation on 28 June 2021. Given that the revised calculation will reflect the leverage of a transaction more appropriately, and at the same time increase the capacity of an institution to lend and to absorb losses amid the covid-19 pandemic, the EU brought this provision forward through a derogation to the first capital requirements regulation that is currently in effect. The UK supported that approach. This derogation is time-limited in the EU to 28 June 2021, as that is when the relevant EU CRR II comes into force, which will put in place the new permanent provisions on leverage ratio.

As the Committee will be aware, the European Union (Withdrawal) Act 2018 provides that EU law, as it is in effect at the end of the transition, will continue to apply in the UK. This means that the first capital requirements regulation as it exists on 31 December will remain in place in the UK until it is amended by this Bill. That means that the derogation would also cease to have effect in the UK on 28 June 2021, because we will have adopted it on the terms that it is now live in the EU. The UK has not legislated a date by which to update its prudential regime in this Bill, because it is most important that our regulators get the rules right and have enough time to consult and finalise them, and also to minimise disruption.

The UK is targeting 1 January 2022 for firms to have implemented the PRA CRR rules. This decision was made after introduction of the Bill, in response to industry concerns about the general volume of regulatory reform in 2021. I referred earlier to the future regulatory

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framework review. The first stage of that was a piece of work that the Treasury did with industry and the regulators following Chancellor Hammond's work 18 months ago, which sought to rationalise and understand the range of regulatory interventions that were ongoing.

UK financial services providers would have to revert to the previous rules from June for a period of approximately six months, which would be costly for industry and inconsistent with the EU regime during that period. This amendment therefore removes the time limit on the derogation, so it will remain in place until the new permanent provisions are in place in the UK, giving clarity and certainty, and not seeking to cause disruption. That is why I ask hon. Members to accept this amendment.

Mr McFadden: Can I ask a question about this? The Minister said that the leverage ratio had been changed so that institutions could lend more. I assume that means it is being reduced as a temporary measure during the covid crisis. He then said that, while at EU level that was to be for six months, the UK had not decided when such a change should end. The implication is that we are allowing a reduction in the leverage ratio without an end date. That is potentially very significant in terms of the discussions that we have had about capital today.

I appreciate that it is late in the afternoon and all the rest, but having listened to the Minister, and given how sensitive this issue of leverage ratio is—how can I best put this?—I would be grateful if he could undertake to write to the Committee with more detail on how this will operate. A permanent or long-term reduction in the leverage ratio would be a very big regulatory decision and would be precisely the kind of thing that we have been talking about all day, and precisely the kind of thing that we have been saying should have proper reports back, which those on the Government Benches have been resisting all day. I would like to find out more about what exactly this means and how long it will last for.

John Glen: To the right hon. Gentleman's point, the UK has not legislated a date by which to update the prudential regime in this Bill, because it is most important that our regulators get the rules right. On the amendment made for the covid crisis that we have aligned to, which essentially ends next year, he is asking about the potential for us not to end it and therefore to be at odds with the prevailing new situation in the EU after 28 June.

Mr McFadden: It is not an EU point.

John Glen: Well, whatever the enduring reversion environment is in the EU following the end of this special measure. I will be happy to write to the right hon. Gentleman on that, but the key point is this: it would not be appropriate for the UK to determine where we would be beyond 28 June in advance of the regulator's looking at those matters, when at the same time the EU's definitive position at the end of June is not yet known. I will write to him, because I recognise that he is saying that he is apprehensive about the fact that we will have an apparent 18-month period from next June until January 2022 where we are at odds with the prevailing norms, and that is a risk. If I have understood him correctly, I am happy to address that point.

Mr McFadden: I am grateful to the Minister, but it is not an EU alignment point that I am making. He is right that, yes, this has arisen because of a disalignment with the EU, but my point is not that we have to always look at this through the lens of being aligned with the EU on capital requirements. I am talking about a public safety point; I am talking about a UK regulator taking a view on the leverage ratio, not necessarily in the light of what the EU is doing after June, but precisely because of all the points we have been making about the importance of capital after the financial crisis.

John Glen: I am happy to restate what I said. We have inherited an environment and indeed we have been obliged—quite reasonably—to absorb into law where the EU has got to at the end of the transition period. My point is that, in order to get the right enduring solution for our capital requirements for the UK, as it is in the UK, we have to allow a regulator to do that work.

The point the right hon. Gentleman is making is about the potential deviation of that enduring solution, and the gap between its implementation and the capital requirements that are normative globally, next June. I will undertake to clarify how we consider, in essence, the trade-off between that potential deviation and the disruption to firms. However, what I have tried to convey throughout today's proceedings is that our desire is not to deregulate or to deviate from international norms, but to set out a UK framework that is necessary and appropriate for the institutions that exist in the UK.

The Chair: So the letter will be on its way to the whole Committee?

John Glen: Yes. I am very happy to confirm that that communication will be made available to the whole Committee.

Amendment 32 agreed to.

Schedule 4, as amended, agreed to.

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

4.43 pm

Adjourned till Thursday 26 November at half-past Eleven o'clock.

Written evidence reported to the House

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