

Financial Services (Regulation of Deposits and Lending) Bill

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Bill 71 55/1 *Financial Services (Regulation of Deposits and Lending) Bill 1*

A B I L L T O

Prohibit banks and building societies lending on the basis of demand deposits without the permission of the account holder; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Types of deposit accounts

- (1) Banks or building societies that accept deposits from retail customers must offer those customers a choice of at least one lending intermediary services account and at least one custodial deposit account.
- (2) A lending intermediary services account must be established on the following terms—
 - (a) the customer is the lender and the bank or building society is the borrower,
 - (b) the lender relinquishes title to the lent funds, which may be lent by the bank or building society to third parties or be used as a basis on which such loans can be made, and
 - (c) the bank or building society must repay the funds to the lender on request, with interest on such terms as agreed by the lender and the bank or building society at the time of the deposit.
- (3) Bank deposit insurance will not be available for any funds in lending intermediary services accounts.
- (4) For all lending intermediary services accounts the bank or building society must provide to the lender information on the nature of the loan and other risks associated with the bank's or building society's obligation and ability to repay the loan, including, so far as they apply—
 - (a) the possibility of partial or complete default,
 - (b) the possibility of late repayment,
 - (c) the possibility of runs on the bank or building society,
 - (d) the existence of any suspension clauses or similar limitations on or exceptions to the bank's or building society's obligation to repay,
 - (e) the bank's or building society's reserve ratio policies, and
 - (f) the requirements of subsection (3).
- (5) Custodial deposit accounts must be established on the following terms—
 - (a) the bank or building society will act as depositary and custodian of the deposited funds, which, being fungible, may be commingled,
 - (b) depositors of such accounts retain ownership of the commingled funds, each depositor having a pro rata interest in the funds based on the amount of their own deposit,
 - (c) the bank or building society must not lend on the basis of the funds, or lend or otherwise dispose of the funds, and
 - (d) the bank or building society must make any or all of the share of the depositor's funds

available for withdrawal on demand.

2 Penalties

- (1) A penalty may be imposed by the Bank of England or the Financial Services Authority on a bank or building society which fails to offer accounts in accordance with section 1.
- (2) The penalty which may be imposed for an offence under subsection (1) is an unlimited fine.

3 Commencement and transitional provision etc

- (1) This Act comes into force on such day as the Chancellor of the Exchequer may by order made by statutory instrument appoint.
- (2) The Chancellor of the Exchequer may by regulations made by statutory instrument make such transitional, transitory or saving provision as he considers appropriate, subject to the provisions of subsection (3).
- (3) The Chancellor of the Exchequer must by regulations made by statutory instrument make provision for accounts opened before the day on which this Act comes into force to continue to exist on the following terms—
 - (a) funds can be withdrawn but no further deposits can be made,
 - (b) interest accrued must be held in escrow on behalf of the customer until the customer elects whether to hold the interest in a lending intermediary services account, a custodial deposit account, or withdraw it.
- (4) Regulations made under subsections (2) and (3) are subject to annulment in pursuance of a resolution of either House of Parliament.

4 Short title and extent

- (1) This Act may be cited as the Financial Services (Regulation of Deposits and Lending) Act 2011.
- (2) This Act extends to England and Wales and Scotland.

Bill 71 55/1

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A BILL

To prohibit banks and building societies lending on the basis of demand deposits without the permission of the account holder; and for connected purposes.

*Ordered to be brought in by Mr Douglas Carswell and Steve Baker:
Ordered, by The House of Commons, to be Printed, 15 September 2010.*