

Financial Services (Miscellaneous Amendments) Bill 2012
Third Reading approved

4.1. Mr Teare to move:

That the Financial Services (Miscellaneous Amendments) Bill 2012 be read a third time.

The Speaker: Item 4, Bill for Third Reading, and I call upon the Hon. Member for Ayre to move the Third Reading of the Financial Services (Miscellaneous Amendments) Bill.

Mr Teare: Thank you, Mr Speaker.

As described in the clauses reading, the Financial Services (Miscellaneous Amendments) Bill 2012 amends the Financial Services Act 2008 and the Collective Investment Schemes Act 2008, which together provide the Financial Supervision Commission's regulatory powers.

In moving the Third Reading, I would like to thank Hon. Members for their support in taking the legislation forward this far. The amendments proposed by the Bill address evolving international standards in financial regulation, including certain expectations of the International Monetary Fund, devise powers relating to lack of fitness and propriety, so as to improve customer protection, and reduce costs of administrative burdens for the FSC, its licenceholders and Tynwald.

In addition, the Bill improves consistency between the two Acts, as well as clarifying some existing provisions and increasing transparency. These changes are important as they will help ensure that the Island's financial services legislation remains clear and up to date. This is essential if the Isle of Man is to be assessed as compliant with international standards by the IMF assessors in their next inspection of the Isle of Man.

Other changes are important in assisting the FSC to respond more readily to industry's needs and to enable it to improve protection for customers of its licenceholders.

Mr Speaker, amendments on three topics were moved at the clauses stage. One of these widened the provisions for transferring business from one deposit taker to another. The amendment was requested by the industry, for whom it will reduce costs. At present it presents negligible risk to the Island, or to depositors or investors, so I was pleased to support the motion.

The second amendment was to the definition of 'controller'. This amendment was to address a recent change to Basel Core Principles. The change will better enable the FSA to consider the fitness and propriety of those who are responsible for banks. It will thereby assist the FSC to improve protection of depositors, and so this amendment carried my full support.

A third amendment was moved by the Member for Rushen, Mr Skelly. This amendment was sought to require the FSC to tell a person 28 days in advance that the FSC planned to issue a warning notice under section 11 of the Financial Services Act. In other words, it sought to require a warning of a warning. Mr Speaker, it seems to me that such an amendment would create a situation in which the FSC would be hampered in its ability to protect investors and depositors for almost a month as it became concerned about the fitness and propriety of licenceholders, controllers, directors or key persons.

If the FSC is concerned about the contact of those who run a licenceholder, it is appropriate, and in accordance with the statutory obligations, that it should act as quickly as possible to protect that business's clients. Providing 28 days' notice of a warning could allow the business to continue with the actions that are causing the FSC concern.

I understand that a warning notice should never be a surprise to a recipient as it usually follows other, often protracted, communications with the notified persons. This gives those persons ample opportunity to correct deficiencies before a warning notice is issued. It would be considered therefore that the recipients had already had considerably more than 28 days' notice before receiving the final warning. In addition, warning notices are subject to an appeal process.

Mr Speaker, the Hon. Member for Rushen undoubtedly acted in good faith when he moved the amendment relating to section 11 warning notices, but it was rightly opposed by the majority of Members, as it would have increased risk for other customers or persons carrying on a regulated activity.

The FSC statutory obligation is to protect those customers, not to protect the individuals who run its licenceholders and about whom it has concerns. I would therefore like to reiterate to this Hon. House that I do not believe it is appropriate for the FSC to issue a warning of a warning, and therefore I could not support that amendment.

Mr Speaker, I beg to move that the Financial Services (Miscellaneous Amendments) Bill 2012 now be read for the third time.

The Speaker: I call on Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: If no one wishes to speak, I put the motion that the Financial Services (Miscellaneous Amendments) Bill 2012 be read for the third time. Those in favour, please say aye; against, no. The ayes have it.
The ayes have it.