FINANCIAL SERVICES BILL – 2nd READING BRIEFING

The Finance Innovation Lab works to transform the financial system for people and planet. With Positive Money, the Lab coordinates the Transforming Finance Network of civil society organisations focussed on financial sector policy.

SUMMARY

The Financial Services Bill is important in its own right, but also because it is the key first step in defining how financial sector regulation will be conducted post-Brexit.

This briefing makes three key points that MPs could raise during the second reading debate:

1. **The Bill threatens to introduce a democratic accountability deficit in financial sector policy making.** It delegates significant powers to the executive and regulators without sufficient parliamentary or public accountability. Far greater efforts should be made to engage civil society groups to ensure the interests of citizens, society and the environment are represented when developing financial sector policy and legislation.
2. **The purpose of the Bill should be broadened to economic, social and environmental outcomes.** The policy objectives of financial stability, economic growth and competition, that have been emphasised during the preparation of the bill, while important, are not the ultimate purpose of financial sector policy.
3. **The Bill should help the UK to be a leader in financial regulation that sets high standards**. The Bill is an opportunity for the UK to raise the bar rather than seeking to merely implement international standards. There is a real danger – particularly given the accountability deficit - that the Bill opens the door for the UK to compete by having lower standards than other jurisdictions.

DETAIL AND BACKGROUND

The Financial Services Bill passed its first reading on 21st October, and its second reading is scheduled for 9th November. The Bill covers a wide range of issues, covered in the corresponding explanatory notes. HMT has prepared an impact assessment, and the House of Commons Library has produced a briefing.

1. Accountability Deficit

The Bill affects the Capital Requirements Regulation and the Credit Ratings Agencies Regulation and would give HMT considerable power to amend these, requiring only nominal approval from Parliament using the Affirmative Procedure - such approval has not been withheld since 1978. Previously these regulations were amended at European Union (EU) level, including active engagement and approval by the European Parliament. Though far from perfect, this accountability allowed differing voices to be heard, enhanced transparency, promoted democratic debate, and significantly improved aspects of these regulations. This is part of a broader trend during the transference of decision-making from the EU to the UK of expanding the powers of the executive and regulators relative to the legislature. For example, HMT's phase two of its review of the Financial Services Future Regulatory Framework envisages significant expansion of responsibilities for regulators.

Consultation processes that have fed into the Bill – not all of which have yet been published - have been focussed on getting industry responses: much more effort needs to be made going forward to ensure that a wider range of stakeholders can be involved, as all financial sector legislation affects the wider economy, with potentially major social and environmental impacts. For example, longer consultation periods will be needed than the one month consultation period offered by HMT - over the summer - to comment on updating the UK's prudential regime.

2. Broader purpose

The policy objectives of financial stability, economic growth and competition that have been emphasised during the preparation of the bill, while important, are not the ultimate purpose of financial sector policy. Instead, as the Lab's Regulatory Compass report has set out, broader social, environmental and economic objectives should guide all legislation in this area. It is shocking that, in HMT's list of key areas for its policy agenda (see page 9 there is no mention of environmental priorities, and in HMT's impact assessment for the Bill, greenhouse gas impacts are listed as not applicable, even though significant changes to how investment firms behave – the centrepiece of the Bill - are bound to have such impacts.

One key way environmental priorities should be introduced in the Bill is by making its proposed new regulatory framework for investment firms respond to the climate and environmental crisis we now face. For example, the capital requirements that will be developed for these firms should penalise assets that carry large climate risks or create environmental damage, and incentivise those that support a sustainable, just transition. Detailed proposals have been developed for how this could be done.

3. High standards

The Bill is an opportunity for the UK to raise the bar rather than seeking to merely implement international standards. The danger that the UK could seek to compete by having lower standards than other jurisdictions should be avoided. International standards, such as the Basel standards have previously been interpreted through EU regulations and directives. It is important to remember that there is a wide variety of ways this can be done. The objective should be for the UK to enhance its reputation through ensuring the highest standards in terms of transparency, probity, accountability and stability, and also become a leader in social, environmental and governance
(ESG standards.

For example, the Bill proposes amendments to the Packaged Retail and Insurance-based Investment Products (PRIIPs regulation. This sets requirements for what fund managers must disclose in the Key Information Document they provide to retail investors. This is an opportunity to set out in detail high standards for ESG disclosures.