Amendments probe AML supervision changes

Briefings

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Prompted by ATT and CIOT, peers have challenged ministers over the process for transferring anti-money laundering supervision to the Financial Conduct Authority.

The House of Lords has agreed clause 14 of the Financial Services and Markets Bill, which provides the legislative basis for moving anti-money laundering (AML) and counter-terrorist financing supervision of professional services firms to the Financial Conduct Authority (FCA). But peers used the committee stage debate on 24 June to press ministers on costs, the timetable, sector expertise, legal professional privilege and the risk of duplicating existing professional regulation.

Baroness Kramer, Liberal Democrat Treasury spokesperson, thanked CIOT and ATT in respect of her amendments 65 to 69, 'for both clarifying issues and proposing legal language'. She explained that the amendments – which were prompted by points made by the two bodies in a joint representation – sought to require continuing education, guidance and compliance support for firms; a proper transition timetable; FCA expertise in tax, accounting, legal services and trust and company service provision; transparency over supervisory costs and fees; and a report within six months on the effectiveness of the new system. ‘Frankly, all of that should have been in the Bill, and none of it should be controversial,’ she said.

Kramer warned that many in the professional bodies are ‘very correctly worried that the FCA lacks the expertise and capacity to carry out the role it is being given [with] no significant history of supervising small and tiny firms.’ She went on to say that these firms ‘need compliance support, education, expert helplines, hand-holding and guidance from a supervisor that knows their business model’, and that providing such services has been one of the strengths of the professional bodies.

Conservative frontbencher Baroness Neville-Rolfe spoke about amendment 69A, a CIOT/ATT-drafted new clause which would require the Treasury to report to Parliament on the process for transferring responsibilities under clause 14. She said the key question was whether the government’s mechanism was ‘sufficiently clear, proportionate and workable’. Her answer was blunt: ‘At present, I am concerned that it is not.’

Amendment 69A, she explained, would force ministers to set out how the transfer would work in practice, including how costs would be assessed, duplication avoided and the FCA equipped with the necessary sector expertise.

Lord Mackinlay, declaring interests as a chartered accountant and chartered tax adviser, said that ‘the AML regulations have got out of control’. Drawing on his own experience as a tax adviser, he said it was ‘time to streamline what has become a real blockage in the UK’. He praised the current regulatory model and urged ministers to strengthen what professional bodies were already doing, asking: ‘If it ain’t broke, why are we trying to fix it?’

Responding for the government, Treasury minister Lord Stockwood agreed that whether firms will continue to receive appropriate support and whether the FCA will possess sufficient sector-specific expertise are important issues. He assured peers that ‘they are already central to implementation planning’. ‘The government have been clear that implementation must involve the development of specialist expertise within the FCA and close engagement with existing supervisors and representative bodies,’ he said.

Parliamentary rules prevent amendments from being divided on in Lords Grand Committee but it is likely that these issues will be returned to at the Bill’s report stage in September.

You can read the CIOT/ATT representation here.