

Financial Services Act 2010

On 8 April 2010, the Financial Services Act 2010 (the Act) received Royal Assent. The Act amends the Financial Services and Markets Act 2000 with the purpose of strengthening the regulation of the Financial Services Industry. The Act aims to tackle some of the issues which are thought to have contributed to the crisis facing financial services.

Amongst other things, the Act includes provisions:

1. Creating a new financial stability objective for the Financial Services Authority, known as the FSA;
2. Requiring the FSA to establish a new body charged with increasing the general public's knowledge and awareness of financial matters;
3. Empowering the UK Treasury to make regulations governing the preparation, approval and publication of executives' pay;
4. Requiring the FSA in consultation with both the UK Treasury and Bank of England to make rules obliging authorised firms to have at all times an up-to-date recovery plan to deal with circumstances in which the company is likely to fail;
5. Allowing the FSA to make rules regarding short selling;
6. Widening the FSA's disciplinary powers;
7. Limiting the issuing of credit card cheques under the Consumer Credit Act 1974;and

8. Strengthening the FSA's power to require authorised and regulated firms to establish a consumer redress scheme.

In order to get this legislation through Parliament, the UK Government was forced to concede two provisions included in the original draft bill but which have not made it into law:

- a. The establishment of a "Council for Financial Stability"; and
- b. Allowing collective redress "class actions" in the courts for people with similar claims against banks, insurers and other financial services firms.

It is thought that this will not be the end of the matter, as Peter Vicary-Smith, chief executive of consumer watchdog Which? called for Parliament to reintroduce proposals for class actions at the earliest opportunity after the election.

"Collective redress is a potentially powerful weapon for consumers against the systemic mis-selling of financial products and would prove a real deterrent for firms engaging in unscrupulous sales practices," he said. "By dropping these measures from the Financial Services Bill, a golden opportunity to empower consumers is being missed."