

Financial Services (Miscellaneous Amendments) Bill 2012
First Reading approved

5. Mr Braidwood to move:

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

The President: We move on to the Financial Services (Miscellaneous Amendments) Bill. I call on Mr Braidwood to take the First Reading.

Mr Braidwood: Thank you, Madam President.

The Financial Services (Miscellaneous Amendments) Bill 2012 seeks to make important amendments to the Financial Services Act 2008 and the Collective Investment Schemes Act 2008. These Acts together provide for the supervision and regulation of financial services by the FSC – that is the Financial Supervision Commission.

The Bill contains four parts and one schedule.

Part 1 is introductory.

Part 2 amends the Financial Services Act 2008 in clauses 4 to 25 and the schedule relating to clause 5.

Part 3 amends the Collective Investment Schemes Act 2008 in clauses 26 to 34.

Part 4 contains closing provisions in clauses 35 and 36.

The amendments proposed by the Bill have a number of effects: they reflect evolving international standards in financial regulation; they revise powers relating to lack of fitness and propriety; they clarify existing provisions; they improve consistency between the two Acts; and they also reduce costs or administrative burdens. Some changes result from comments made by assessors of the International Monetary Fund following their last visit to the Island. Other changes reflect industry comments or the FSC's regulatory experience since the Acts were introduced in 2008.

In addition, the Bill aims to increase consumer protection; to clarify that the FSC's statutory indemnity provisions extend to those carrying out the FSC's statutory functions; to clarify the FSC's current role in overseeing certain auditors in respect of particular audits; to facilitate the transfer of business from one deposit-taker to another; and to enable the FSC to respond more properly to the needs of the funds industry via changes to requirements for authorised and recognised collective investment schemes.

New appeal provisions are added in respect of relevant new powers, and the Bill reformats the current and new appeal provisions into a similar format. In addition, the Bill makes an amendment to the Financial Services Ombudsman Scheme's compensation limit and it incorporates two existing gateways into the Act so that all existing gateways will be in one place. The Bill also makes consequential amendment to the Companies Act 1931 in respect of a new transfer of deposit-taking business provision.

The Bill has been the subject of wide consultation, and all comments received have been addressed.

There is no indication that the Bill will place any additional administrative or financial burden on the regulated sectors or on Government. In fact, some provisions aim specifically to reduce costs for industry or Government.

Madam President, I beg to move that the Financial Services (Miscellaneous Amendments) Bill 2012 be read for a first time.

Mr Lowey: I beg to second, Madam, and reserve my remarks.

The President: Mr Downie.

Mr Downie: Thank you, Madam President.

I support the Bill, but I understand in the other place there was an attempt made to move an amendment to clause 9 and the insertion of a new clause because it was felt that the provisions leading to section 11 warning notices... It was thought that, before giving a warning notice, the Commission must give the intended recipient of the notice an opportunity to make representations in accordance with section 11A.

It is a complicated area this, and what I would like to do, Madam President, in flagging this up... I have been contacted by one or two people. I will give the information I have to the mover and perhaps at the next sitting, he will be able to deal with the answers then. It would take about 15 minutes to try and explain and I do not think at the present time I would get the message across. I think it is easier to hand the paperwork over and then let the Hon. Member have a look through it and give me his assessment.

But basically I am in favour of the Bill and will be supporting it.

Thank you.

The President: The Hon. Member, Mr Wild.

Mr Wild: Thank you, Madam President.

Just to echo a similar comment to my hon. colleague, Mr Downie, I am in complete support of the Bill but I just wanted some clarification, because when I read it through there seemed to be a mismatch in terms of the ability to act on a warning notice; but my colleague, Mr Downie, has full information which he can share with Mr Braidwood.

The President: Mr Braidwood to reply.

Mr Braidwood: Thank you, Madam President.

I am quite happy to take the concerns of Mr Downie on board, and at the Second Reading and the clauses stage, I will expand on the queries which Mr Downie and Mr Wild have expressed.

I beg to move.

The President: The motion before Council is that the Bill be read a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.