

#### 4. Payment Services Bill 2015 – First Reading approved

Mr Braidwood to move:

*That the Payment Services Bill 2015 be read a first time.*

**The President:** And now to the final Item on our Order Paper today, the Payment Services Bill, again in the hands of Mr Braidwood. Would you like to move the First Reading, sir.

**Mr Braidwood:** Thank you, Madam President.

The Payment Services Bill 2015 is a short and rather technical Bill. But Madam President, it is necessary to enable the Island's banks to compete in the field of payment services involving payments into the European Union and the other countries which form part of the Single Euro Payment Area (SEPA). That area now embraces 31 states, many of which are within the European Union, but also including Switzerland, Monaco and the French territories, Saint Pierre and Miquelon.

The Council of Ministers approved the principle of the Island making an application for the Island to become part of SEPA as long ago as 2009. However, internal difficulties within the European Payments Council (EPC), which regulates the SEPA payment schemes in defining the criteria for admission for non-EU states, led to discussions stalling early in 2010. Madam President, serious negotiations only became possible in early 2014 when after an approach from staff at the Island's Brussels office, together with Channel Islands colleagues, the EPC published a revised set of criteria. The Bill seeks to deal with two aspects of those criteria.

If the Island becomes a jurisdiction within SEPA, banks which are based here will be able to apply to become members of the SEPA schemes. The schemes cover international direct debits and international credit transfers. Before an application by an individual bank can be made, the jurisdiction in which it is based must itself be approved for membership of SEPA. There are a number of criteria which are set out in the EPC's 2014 publication. Many of these relate to international probity standards and are already met here.

Two of the criteria, namely the application of Titles III and IV of the 2007 European Payments Services Directive and the Electronic Money Directive could have been achieved by statutory documents under sections 2A and 2B of the European Communities (Isle of Man) Act 1973. However, another criterion, which relates to the application of EU competition law in the context of payment services within SEPA could not be achieved except by new primary legislation. That is because the fundamentals of European competition law were originally located within the founding treaties of the European Communities, and now found in articles 101 and 102 of the Treaty of the Functioning of the European Union.

The meat of the Bill, Madam President, is to be found in clauses 4 to 6. Clause 4 will permit the Financial Supervision Commission to make regulations in relation to the application of the two directives, I mentioned; while clause 5 will enable the Isle of Man Office of Fair Trading to make regulations containing special provision to achieve the necessary level of regulation in relation to competition law for the purpose of SEPA applicants, participants and payment transactions.

The Bill includes an element of future-proofing in clause 7, which will permit the Council of Ministers to make an order to amend the Act to reflect changes either in relation to technology or methods of regulation for payment services. All statutory documents under the Act will be subject to Tynwald approval and regulations under clauses 4 and 5 will also be the subject of statutory consultation before they are made.

Madam President, I beg to move that the Payment Services Bill 2015 be read for the first time.

**The President:** Mr Downie.

**Mr Downie:** I beg to second and reserve my remarks.

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Thank you, Madam President.

I thank the Mr Braidwood for the First Reading, which the Isle of Man Bankers' Association fully support this, I understand, as it will give them access for Isle of Man banks to join the Single European Payments Area.

When reading the Bill, it did talk, and you have mentioned this, about the lack of competition rules that are not up to the standard the European Union requires. Just looking at clause 5, where this is going to happen, where 'the OFT may make regulations applying' etc, under what statute will they make the regulations? Will they make it under this Bill, or will it be under other legislation – to change competition law?

**The President:** The mover to reply.

**Mr Braidwood:** Madam President, I will clarify this for the Second Reading and clauses, but I think this will be placed under the European Communities (Isle of Man) Act 1973. But I will clarify that, Madam President, at the Second Reading. **(Mr Crowe: Thank you.)**

I beg to move, Madam President.

**The President:** This motion 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.

Thank you very much, Hon. Members. That concludes consideration of the business before us today. Thank you for your stamina – it is unusual for Council to sit for so long – especially to our Acting Attorney General, who has had a long session today.

We will now adjourn until Tynwald Court next week, and then in our own Chamber on 24th February.