

**6. CONSIDERATION OF CLAUSES**

**6.1. Bank (Recovery and Resolution) Bill 2020 –  
Clauses considered**

Mr Shimmins to move.

1835 **The Speaker:** Mr Shimmins to move Item 6, Bank (Recovery and Resolution) Bill 2020, Consideration of Clauses.

1840 **Mr Shimmins:** Mr Speaker, this is the second half of the clauses Bank (Recovery and Resolution) Bill 2020 which, as indicated in the Second Reading, establishes a framework for the recovery and resolution of banks and for connected purposes.

The Bill is divided into 14 Parts, comprising 171 clauses and one Schedule. In today's sitting I shall cover Parts 8 to 14 of the Bill.

Sorry, Mr Speaker, the microphone still seems to be on in the Chamber, there is quite a lot of interference. (**The Speaker:** My apologies.) Thank you.

1845 As mentioned previously, the Bill provides various powers for the Isle of Man Financial Services Authority', which I shall call 'the FSA' when referring to that body in its capacity as a financial services regulator, and I shall call it 'the Authority' when referring to the body in its capacity as a resolution authority. This is in line with the terminology used in the Bill and in the explanatory notes supplied to Members.

1850 As before, I have grouped the clauses by subject. If any Member wishes to go through any clause individually I will of course be pleased to do so.

1855 Turning to the clauses: clauses 72 to 76 are the first in Part 8. These clauses introduce the 'sale of business tool', which enables the transfer of assets, rights, liabilities and shares of a bank in resolution to another party. The Authority may use this tool for a bank that meets the resolution conditions without the consent of the failed bank's shareholders or other third parties, whilst observing resolution safeguards and the general principle that costs must be recovered from the bank in resolution.

Business acquired by a purchaser must continue as it was prior to the transfer and the purchaser must seek a deposit-taking licence in the Island if it does not already hold one.

1860 Net proceeds of any such transfer must benefit shareholders or the bank in resolution. However, if the purchaser agrees the assets, rights, liabilities and shares may later be transferred back to the bank in resolution.

I beg to move that clauses 72 to 76 stand part of the Bill.

1865 **The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

1870 **The Speaker:** If no Member wishes to speak, I put the question that clauses 72 to 76 inclusive stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 77 to 81, Mr Shimmins.

1875 **Mr Shimmins:** Thank you, Mr Speaker.

Clauses 77 to 81 require the Authority to market the assets, rights, liabilities or shares of a bank that the Authority intends to transfer. Such marketing must be carried out according to specified criteria, to ensure fairness and maximum price. However, the sale of business tool may

1880 be applied without marketing the bank if it appears that the resolution objectives or financial stability may be compromised.

Any parties whose assets, rights and liabilities are not transferred to a purchaser, have no rights over the assets, rights and liabilities that are transferred. Also, if a private sector purchaser acquires only a part of the failing bank's business through the sale of business tool, the residual bank must be liquidated within an appropriate timeframe.

1885 I beg to move that clauses 77 to 81 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

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**The Speaker:** I presume the motion that clauses 77 to 81 stand part of the Bill will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

1895 Just on a procedural point that has been raised in the chat box about the completion, ordinarily the business of the House would complete at 5.30 p.m. However, Standing Orders state that is under normal circumstances, therefore I would be carrying on through to the end of the Order Paper unless it was resolved otherwise.

So with that in mind, I ask Mr Shimmins to move clauses 82 to 86.

1900 **Mr Shimmins:** Thank you, Mr Speaker.

Clauses 82 to 86 introduce the 'bridge bank tool'. The clauses describe the purpose of a bridge bank and enable the Authority to make share transfer or property transfer instruments to apply the bridge bank tool, whilst observing resolution safeguards.

1905 The bridge bank is a legal entity that is controlled by the Authority, irrespective of any 'bail-in' or other tools. It must operate as a viable, going concern so that it may be marketed as such in future.

1910 No shareholders' or other third parties' consent is required before the bridge bank tool is used, but consideration paid must benefit shareholders or the bank in resolution depending on the circumstances. Also, the Authority may recover reasonable expenses in connection with the resolution.

Any assets, rights, liabilities and shares transferred to a bridge bank may later be transferred back to the bank in resolution or the original shareholders, by the Authority.

I beg to move that clauses 82 to 86 stand part of the Bill.

1915 **The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

1920 **The Speaker:** If no Member wishes to speak, the motion is that clauses 82 to 86 stand part of the Bill. I will presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 87 to 90, Mr Shimmins.

1925 **Mr Shimmins:** Thank you, Mr Speaker.

Clauses 87 to 90 continue to look at the rights over the bridge bank's assets and rights and liabilities that are transferred. Also, the bridge bank and its management do not have any duty or responsibility to those shareholders and creditors other than in specified circumstances.

I beg to move that clauses 87 to 90 stand part of the Bill.

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**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

1935 **The Speaker:** I will presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it. Clauses 87 to 90 stand part of the Bill.

Clauses 91 to 94, Mr Shimmins.

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**Mr Shimmins:** Thank you, Mr Speaker.

Clauses 91 to 94 describe how the bridge bank must be operated and marketed with a view to its ultimate sale, which will normally be within two years. The period of termination of the bridge bank may be extended for one or more additional one-year periods where considered necessary by the Authority. The clauses also describe how the Authority must decide that a bridge bank is no longer a bridge bank if certain circumstances arise, and require that it should be wound up following the sale of all or substantially all of its assets, rights and liabilities.

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The clauses also describe how any proceeds generated as a result should be applied, with reference to the general principle on the costs of resolution.

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I beg to move that clauses 91 to 94 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

1955 **The Speaker:** If no Member wishes to speak, I put the question that clauses 91 to 94 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 95 to 100, Mr Shimmins.

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**Mr Shimmins:** Thank you, Mr Speaker.

Clauses 95 to 100 introduce the 'asset separation tool', specify the conditions necessary for its use and state that it may only be used in conjunction with other stabilisation tools. Subject to certain restrictions which are specified, the tool may be used to effect transfers of business to a publicly owned 'asset management vehicle' without shareholders' or other third parties' consent, whilst observing resolution safeguards.

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The 'asset management vehicle' is also described, together with its objectives, when it may be used and how consideration paid by such a vehicle should be applied, with reference to the general principle on costs of resolution. It is clarified that an asset management vehicle does not have any obligations to the shareholders or creditors of the bank in resolution, other than in specified circumstances.

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The clauses also enable property transfer instruments, which the Authority may use in connection with transfers both to and from an asset management vehicle.

I beg to move that clauses 95 to 100 stand part of the Bill.

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**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

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**The Speaker:** Thank you.

If no Member wishes to speak – and perhaps if I could just put out a plea that if any Member wishes to speak to a clause that is coming up, if you could give me advance warning so that I can slow down at that point. Otherwise I will try and keep the tempo up.

1985 The question is that clauses 95 to 100 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 101 to 104, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

1990 Clauses 101 to 104 introduce the ‘bail-in tool’ and enable the Authority to make resolution instruments for its use. The scope and conditions for use of the bail-in tool are specified, as are the categories of liabilities to which the bail-in tool may not be applied. Additionally, the Authority’s discretion to exclude certain liabilities from bail-in under certain circumstances is specified.

1995 I beg to move that clauses 101 to 104 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

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**The Speaker:** The motion is that clauses 95 to 100 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 105 to 107, Mr Shimmins.

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**Mr Shimmins:** Thank you, Mr Speaker.

2010 Clauses 105 to 107 enable the Authority to make a contribution from the resolution fund to the bank in resolution in certain circumstances. These circumstances relate to losses not being applied to excluded liabilities, not being fully passed on to other creditors. The factors to be considered in such decisions are outlined.

A contribution from the fund may only be considered after minimum levels of losses have been absorbed by shareholders and creditors. These levels may be amended by Treasury after consulting with the Authority, subject to Tynwald approval.

The clauses also enable a write-up mechanism to reimburse creditors and shareholders in specified circumstances.

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I beg to move that clauses 105 to 107 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

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**The Speaker:** The motion is that clauses 105 to 107 stand part of the Bill. I will presume the motion will be carried unless any Member indicates dissent, which they should do so now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 108 to 112, Mr Shimmins.

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**Mr Shimmins:** Thank you, Mr Speaker.

2030 Clauses 108 to 112 set out the actions to be taken in respect of shareholders when applying the bail-in tool or the write down or conversion power, as well as detailing the sequence under which the write down or conversion power must be applied to various classes of capital instruments and eligible liabilities.

2035 The Authority must ensure that the principal amounts of certain capital and subordinated debt instruments are written down or fully converted into shares, before following this sequence. The clauses specify conditions that apply to certain liabilities when the write down or conversion power is used, with a particular focus on derivative contracts.

Any losses that arise must be imposed equally between each class of capital instruments and eligible liabilities. Also, eligible liabilities which have been exempted from bail-in may be treated more favourably than other liabilities of the same rank in liquidation proceedings.

2040 I beg to move that clauses 108 to 112 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

2045 **The Speaker:** I put the motion that clauses 108 to 112 stand part of the Bill. I will presume that the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 113 and 114, Mr Shimmins.

2050 **Mr Shimmins:** Thank you, Mr Speaker.

Clauses 113 to 114 require that appropriate methodologies and principles must be observed by the Authority in determining the value of liabilities arising from derivative contracts. Also, the Authority may apply different conversion rates to different classes of capital instruments when using the write down or conversion power.

2055 I beg to move that clauses 113 to 114 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

2060 **The Speaker:** The motion is that clauses 113 and 114 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 115 to 118, Mr Shimmins.

2065 **Mr Shimmins:** Thank you, Mr Speaker.

Clauses 115 to 118 outline the minimum requirements for a business reorganisation plan that must be submitted by the management of a bank if the bail-in tool has been used.

2070 The Authority is required to assess the business reorganisation plan and to advise the bank's management of its acceptability or otherwise. If an amended business reorganisation plan is considered necessary, this must be submitted within two weeks. Reports on progress against the finalised plan must be submitted by the management of the bank to the Authority on a six-monthly basis.

I beg to move that clauses 115 to 118 stand part of the Bill.

2075 **The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

2080 **The Speaker:** The motion is that clauses 115 to 118 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 119 to 121, Mr Shimmins.

2085 **Mr Shimmins:** Thank you, Mr Speaker.

Clauses 119 to 121 set out the effects of a full or partial reduction of a liability, through the use of the write down or conversion power by the Authority, as well as some ancillary provisions in relation to the exercise of such a power.

2090 The Authority is also permitted to require a bank incorporated in the Island to include a contractual term in certain contracts governed by the law of another jurisdiction, recognising that the eligible liabilities concerned may be subjected to bail-in. However, the absence of such a term in the contracts concerned will not prevent the write down or conversion power from being exercised in relation to the liabilities to which the contracts relate.

I beg to move that clauses 119 to 121 stand part of the Bill.

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**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

2100 **The Speaker:** I put the motion that clauses 119 to 121 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 122 to 124, Mr Shimmins.

2105 **Mr Shimmins:** Thank you, Mr Speaker.

2110 Clauses 122 to 124 form Part 9 of the Bill and enable the Authority to provide extraordinary public financial support to a failed or failing bank, as a tool of last resort. Such support may only be considered after the other stabilisation tools have been exploited to the maximum extent. The Authority must act in agreement with and under the direction of the Treasury. Further restrictions are also detailed in relation to any Government financial assistance provided, which must be temporary in nature.

I beg to move that clauses 122 to 124 stand part of the Bill.

2115 **The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

2120 **The Speaker:** I put the motion that clauses 122 to 124 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 125 to 129, Mr Shimmins.

2125 **Mr Shimmins:** Thank you, Mr Speaker.

Clauses 125 to 129 introduce Part 10 of the Bill and describe how the Authority must use the write down or conversion power. This includes the circumstances, timing, sequence, effects and consequences of using the power.

I beg to move that clauses 125 to 129 stand part of the Bill.

2130 **The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

2135 **The Speaker:** I put the motion that clauses 125 to 129 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should indicate now. No dissent being indicated. The ayes have it. The ayes have it. Clauses 130 and 131, Mr Shimmins.

2140 **Mr Shimmins:** Thank you, Mr Speaker. Clauses 130 and 131 set out factors which must be disregarded in determining whether a default event provision applies. These factors relate to contracts involving a bank in resolution, in specified circumstances.

2145 A resolution instrument or share transfer order may provide that such instrument or order's existence may be disregarded in determining whether a default provision under a contract applies.

I beg to move that clauses 130 and 131 stand part of the Bill.

**The Speaker:** Mr Peake.

2150 **Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** Thank you.

The motion is that clauses 130 and 131 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

2155 No dissent being indicated. The ayes have it. The ayes have it. Clauses 132 and 133, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2160 Clauses 132 and 133 require the Authority to consider the effects of exercising resolution powers both internationally and on a bank's group as a whole.

The Authority must seek to minimise the effects on financial stability in other jurisdictions and must avoid carrying out any action that would be likely to breach international obligations of the United Kingdom or the Island.

2165 To this end an 'international obligations notice', as defined, may be served on the Authority by the Treasury or the Attorney General at the behest of any of these parties.

I beg to move that clauses 132 and 133 stand part of the Bill.

**The Speaker:** Mr Peake.

2170 **Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clauses 132 and 133 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

2175 No dissent being indicated. The ayes have it. The ayes have it. Clause 134, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2180 Clause 134 requires the Authority to assess new shareholders of a bank, or the transferee of its business, in a timely manner that does not delay the application of a stabilisation tool. The clause also requires the FSA to consider a licence application connected to use of a stabilisation tool in a timely manner.

I beg to move that clause 134 stands part of the Bill.

**The Speaker:** Mr Peake.

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**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clause 134 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

2190 No dissent being indicated. The ayes have it. The ayes have it.  
Clause 135, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2195 Clause 135 requires that normal insolvency proceedings may not be commenced if the bank concerned meets the resolution conditions or a stabilisation tool has been used, except by or with the consent of the Authority.

I beg to move that clause 135 stands part of the Bill.

**The Speaker:** Mr Peake.

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**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clause 135 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

2205 No dissent being indicated. The ayes have it. The ayes have it.  
Clauses 136 and 137, Mr Shimmins.

Clauses 136 and 137, Mr Shimmins.

2210 **Mr Shimmins:** Thank you, Mr Speaker.

Clauses 136 to 137 detail the Authority's wide range of resolution powers and tools. The clauses explain that these powers may be used individually or in any combination to meet the resolution objectives. A bank in resolution, or any member of its group, must provide continuing operational services to any transferee so as to ensure effective operation of that business.

2215 In addition, certain requirements for notification and permission are exempted from the exercise of resolution powers by the Authority.

I beg to move that clauses 136 and 137 stand part of the Bill.

**The Speaker:** Mr Peake.

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**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the motion that clauses 136 and 137 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

2225 There being no clamour for dissent: the ayes have it. The ayes have it.  
Clauses 138 and 139, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2230 Clauses 138 and 139 introduce resolution safeguards, including the requirement that shareholders and creditors of a bank in resolution must not be financially disadvantaged by a bank having been subjected to use of a stabilisation tool, instead of being wound-up. A shareholder or creditor who is determined to have incurred greater losses by use of a stabilisation tool than they would have under a bank winding-up, is permitted to claim for compensation from the Bank Resolution Fund.

2235 I beg to move that clauses 138 and 139 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

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**The Speaker:** I put the motion that clauses 138 and 139 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Mr Shimmins, clause 140?

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**Mr Shimmins:** Thank you, Mr Speaker.

Clauses 140 to 143 protect certain arrangements if the Authority takes specific actions, such as partial transfers of assets, rights or liabilities, of a bank in resolution. In addition, certain actions in relation to transfers are prohibited, but payment and settlement systems are usually unaffected by the Authority's use of a resolution tool.

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I beg to move that clauses 140 to 143 stand part of the Bill.

**The Speaker:** Mr Peake.

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**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clauses 140 to 143 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

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Clause 144, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 144 allows the Authority to seek the court's determination of any question arising in relation to the taking of a resolution action. The court may then make an order specifying the action the Authority should take.

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I beg to move that clause 144 stands part of the Bill.

**The Speaker:** Mr Peake.

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**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clause 144 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

There being no dissent: the ayes have it. The ayes have it.

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Clause 145 to 147, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clauses 145 to 147 require the Authority to ensure the prompt publication of an order by which a resolution action is taken. The means of such publication is specified. The parties which the Authority must notify if it determines that a bank meets the resolution conditions are also specified.

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The bank's management must notify the Authority promptly if it considers that the bank is failing or likely to fail, as defined in clause 46. The actions the Authority must take in such circumstances are also specified.

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I beg to move that clauses 145 to 147 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

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**The Speaker:** I put the motion that clauses 145 to 147 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being registered. The ayes have it. The ayes have it.

Clauses 148 to 150, Mr Shimmins.

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**Mr Shimmins:** Thank you, Mr Speaker.

Clauses 148 to 150 form Part 11 of the Bill and address foreign resolution actions.

The procedures the Authority must follow if it is notified of a foreign resolution action are described, including a requirement that the Authority makes a 'recognition order', which is subject to consultation with Treasury and to Tynwald's affirmative procedure. The scope of such a recognition order and the Authority's obligations to communicate its decision in respect of a foreign resolution action are described.

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When the Authority makes an order recognising all or part of a foreign resolution action, the legal effect of the foreign resolution action concerned will be the same as if it had been made under Manx law. The Authority may also make a recognition order in respect of a Manx subsidiary of a foreign bank.

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The Authority may exercise a stabilisation tool or power for the purpose of supporting a recognised foreign resolution action and may alternatively refuse to recognise a foreign resolution action in specified circumstances.

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I beg to move that clauses 148 to 150 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

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**The Speaker:** I put the motion that clauses 148 to 150 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

Clause 151, Mr Shimmins.

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**Mr Shimmins:** Thank you, Mr Speaker.

Clause 151 is the sole clause in Part 12 of the Bill. It requires the Authority to submit a report to the Treasury regarding any resolution action undertaken within 12 months of the conclusion of that action. The clause outlines the content of such a report and requires that a suitably redacted version is laid before Tynwald at the earliest opportunity.

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I beg to move that clause 151 stands part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

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**The Speaker:** I put the motion that clause 151 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

There being no dissent: the ayes have it. The ayes have it.

Clause 152, Mr Shimmins.

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**Mr Shimmins:** Thank you, Mr Speaker.

Clause 152 is the first clause in Part 13 of the Bill. It specifies who may apply for a bank winding-up order and the requirements for such an application.

2340 Mr Speaker, I understand that the Hon. Member for Ramsey, Mr Hooper, will now move an amendment to this clause. The amendment will correct an omission from the list of parties that may seek a bank winding-up order.

I beg to move.

2345 **The Speaker:** Thank you.

Mr Peake.

**Mr Peake:** Thank you, Mr Speaker, I beg to second.

2350 **The Speaker:** Thank you.

Mr Hooper to move the amendment.

**Mr Hooper:** Thank you very much, Mr Speaker.

2355 The amendment to clause 152 is very straightforward, it simply adds in the individuals who can request such a winding-up order, and it adds into that the bank itself. At present the list is simply the Authority, the Treasury or a shareholder or creditor of the bank but it seems sensible to merit the application of the Companies Act and allow the bank themselves to apply for such a winding-up order should that be necessary.

So that that is the effect of the clause, Mr Speaker, and I beg to move:

*Amendment to clause 152*

*Page 116, in line 35 substitute for paragraph (c) of clause 152(1) the following — «(c) the bank, or any shareholder or creditor of the bank.».*

**The Speaker:** Thank you. I call on the Hon. Member for Onchan, Ms Edge.

2360 **Ms Edge:** Thank you, Mr Speaker. I beg to second the amendment.

**The Speaker:** Thank you very much.

Now, I put you first the amendment in the name of Mr Hooper, and I presume that the motion will be carried unless any Member indicates dissent, which they should indicate now.

2365 No dissent being indicated. I put to you the motion that clause 152, as amended, stand part of the Bill and I presume that that motion will be carried unless any Member indicates dissent which they should do now. The motion therefore carries.

We move to clauses 153 to 157, Mr Shimmins.

2370 **Mr Shimmins:** Thank you, Mr Speaker.

2375 Clauses 153 to 157 confirm that the provisions of the Companies Acts 1931 to 2004 and the Companies Act 2006 relating to the winding-up of companies have effect in relation to a bank, subject to the provisions contained in Part 13 of this Bill. The Authority is permitted to petition for a bank winding-up on specified grounds, but no other party may present a petition unless the Authority has agreed to this.

2380 A bank liquidator in a winding-up has three objectives, which he is required to work towards. In order of priority, the objectives are: firstly, to work with the Depositors' Compensation Scheme to ensure eligible protected deposits are transferred to another provider or receive the appropriate compensation payment; secondly, where part of a failed bank's business is sold or transferred, to work with the purchaser or transferee to ensure the continued supply of services; and thirdly, to wind up the failed bank's affairs for the greatest benefit of its creditors as a whole, as opposed to quickly.

The grounds upon which an application for a bank winding-up order may be made are set out, as well as when the court may grant such an application.

2385 Also specified are the notification requirements if parties other than the FSA apply for a bank winding-up order, together with provision for certain parties to be heard at proceedings for the granting of a bank winding-up order.

The right to take any proceedings in bankruptcy against a bank are restricted, beyond any provisions of this part of the Bill. Additionally, the court must consult the Authority before it makes a decision on the application of a bank, or any shareholder or creditor of a bank, for the winding-up of that bank.

I beg to move that clauses 153 to 157 stand part of the Bill.

**The Speaker:** Mr Peake.

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**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the motion that clauses 153 to 157 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

2400 No dissent being indicated, the motion therefore carries.

Clauses 158 and 159, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2405 Clauses 158 and 159 establish the powers that may be granted to a bank liquidator in a bank winding-up, including powers in the Companies Act 1931. Any such power must be specified in the bank winding-up order. This order must, in relevant circumstances, require the provision of continued service to any transferee by the bank liquidator. The liquidator is entitled to retain possession of a bank's records and to agree to disposition of property. Also, various actions are prohibited without leave of the court.

2410 I beg to move that clauses 158 and 159 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

2415 **The Speaker:** I put the question that clauses 158 and 159 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

Clauses 160 to 163, Mr Shimmins.

2420 **Mr Shimmins:** Thank you, Mr Speaker.

Clauses 160 to 163 require that following the grant of a bank winding-up order, a bank liquidation committee is established to oversee the functions of the bank liquidator who must report to the committee in accordance with arrangements specified. The members of such committee are specified, as well as when the committee should meet.

2425 The committee is required to make recommendations to the bank liquidator in pursuit of Objective 1 and/or Objective 2, as described in clause 154, and the liquidator has additional duties in respect of these objectives. These duties include informing the committee about the ongoing provision of services, and when objectives 1 and 2 are no longer relevant.

2430 Additionally, either the committee or the liquidator may apply to the court in relation to specified matters and the court may make a direction.

I beg to move that clauses 160 to 163 stand part of the Bill.

**The Speaker:** Mr Peake.

2435 **Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clauses 160 to 163 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.

2440 Clauses 164 to 167, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2445 Clauses 164 to 167 set out additional duties of the bank liquidation committee to oversee the work of the bank liquidator generally and address the committee's duties to decide whether objectives 1 and/or 2 have been achieved.

The committee may cease to exist when certain events occur and a conventional committee of inspection may be formed thereafter. If a committee of inspection is subsequently formed, the FSA will have certain rights to receive information from, and make representations to, that committee.

2450 Any person aggrieved by the actions of the bank liquidation committee may apply to the court, which may make an order including for repayment of money. The bank liquidator may also apply to the court in certain circumstances and the court may issue an order or directions accordingly.

2455 A bank liquidator may process sensitive personal data for the purposes of achieving the objectives in clause 154 and may disclose that data to various specified parties and in accordance with data protection legislation.

I beg to move that clauses 164 to 167 stand part of the Bill.

**The Speaker:** Mr Peake.

2460

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clauses 164 to 167 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should indicate now.

No dissent being indicated. The ayes have it. The ayes have it.

2465 Clauses 168 to 171, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clauses 168 to 171 comprise Part 14 of the Bill and address various miscellaneous matters.

2470 The Part provides that the Authority must not be treated as, or deemed to be, a shadow director or *de facto* director of a bank.

The Authority is permitted to make regulations for the better carrying out of functions under this Act, after consultation with the Treasury. Such regulations require Tynwald approval.

2475 Civil penalties may be imposed under the Act, but the Authority must make regulations to detail the circumstances and amounts of such penalties. These regulations are subject to Tynwald approval and any penalties received will form part of the general revenue of the Island.

The arrangements for appeals under the Act are outlined. Appeals may be made by an aggrieved person to the court in respect of actions taken by the Authority, or any other person exercising a function under the Act. The appeal rights differ according to the action which has been taken and do not suspend the effects of certain decisions or actions in the interim. The court may make interim or final orders in respect of appeals.

2480 I beg to move that clauses 168 to 171 stand part of the Bill.

**The Speaker:** Mr Peake.

2485 **Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the motion that clauses 168 to 171 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated. The ayes have it. The ayes have it.