

Financial Services (Banking Reform) Bill

Government annotated amendments: PRA secondary competition objective

Prudential Regulation Authority secondary competition objective

Competition as a secondary objective of the PRA

(1) For Section 2H of FSMA 2000 substitute -

Section 2H of FSMA sets out the existing competition duty on the PRA and was introduced in the Financial Services Act 2012. This duty requires the PRA to have regard to the need to minimise any adverse effect on competition in the relevant markets that may result from the manner in which the PRA discharges its general functions.

“2H Secondary competition objective and duty to have regard to regulatory principles

- (1) When discharging its general functions in a way that advances its objectives (see section 2F), the PRA must, so far as is reasonably possible, act in a way which, as a secondary objective, facilitates effective competition in the markets for services provided by PRA-authorised persons in carrying on regulated activities.

This Government amendment responds to the recommendation from the Parliamentary Commission on Banking Standards that the PRA be given a secondary competition objective. It turns the negative duty to avoid harm to competition into an active secondary objective.

This amendment imposes a requirement for the PRA to facilitate effective competition through the discharge of its general functions but makes clear that the responsibility to do so is only in so far as it is compatible with its general objectives. The amendment is intended to require the PRA to embed competition considerations within the workings of the organisation and to be proactive in looking for ways to support competition.

The language used, like the existing “have regard,” is not intended to mirror the language of the FCA’s primary competition objective which reflects the FCA’s different remit.

- (2) In discharging its general functions, the PRA must also have regard to the regulatory principles in section 3B.

Section 3B sets out regulatory principles to be applied by both regulators. The amendment does not change this.

(2) In Schedule 1ZB to FSMA 2000 (the Prudential Regulation Authority) -

(a) in paragraph 19 (annual report), in sub-paragraph (1) -

(i) after paragraph (b) insert -

“(ba) how it has complied with section 2H(1),” and

(ii) in paragraph (c), omit the words from “and of” onwards,
and

(b) in paragraph 20 (consultation about annual report), in sub-paragraph (1)(c), for the words from “and the PRA” onwards substitute “and the PRA has promoted competition in accordance with section 2H and has considered the regulatory principles in section 3B”.

Schedule 1ZB paragraph 19 sets out what the PRA should cover in its annual report and paragraph 20 refers to consultation on the annual report. This wording makes consequential amendments to these paragraphs to reflect the amended section 2H.