

Fully Secured Current Accounts Bill

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BILL
TO

Make provision for the introduction of a mandatory requirement for banks and building societies to operate fully secured current accounts to allow money to be stored for safe-keeping; and for connected purposes.

By the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Fully secured current accounts

- (1) All banks and building societies must operate fully secured current accounts.
- (2) “Fully secured current account” means a deposit account in which legal and equitable title to any money deposited in the account is fully vested in the customer for whom the money is held (the “customer”).
- (3) Banks and building societies may not restrict the availability of fully secured current account to particular classes of customer.
- (4) Banks and building societies may not limit or otherwise restrict the quantity of money deposited or the length of time money is deposited in a fully secured current account.
- (5) Money held in a fully secured current account must be
 - (a) kept in the form of cash, and
 - (b) held separately from the general or other assets of the relevant bank or building society;
 - (c) and every branch of every bank and building society must hold a fully secured current account for its own transactions.
- (6) Money deposited in a fully secured current account shall only be—
 - (a) held in a fully secured current account, or
 - (b) delivered in accordance with the instructions of the vested customer
- (7) Banks and building societies may not engage in disposals, dealings or investment with money held in a fully secured current account other than in accordance with the express instructions of the customer

- (8) The Bank of England shall make secure storage available to banks and building societies provided that such storage shall be governed by sub-paragraphs (5) and (6) above and may be charged on an indemnity basis only.
- (9) Money held in a fully secured current account shall remain immediately available to the customer.
- (10) In subsection (9), “immediately” means within the next 24 working hours of the bank or building society.
- (11) Banks and building societies shall have clear written procedures for all withdrawals from fully secured current accounts.

2 Banks’ and building societies fee for service

- (1) A bank or building society may charge reasonable fees to customers for the service of providing, maintaining and administrating transactions on fully secured current accounts.
- (2) Complaints about the reasonableness of the fees charged shall be referred to the Bank of England who shall act as arbitrator and who shall decide the issue of reasonableness having taken into account the factors set out in subsection (4) below.
- (3) A complaint under subsection (2) shall be considered as falling within the Bank of England’s compulsory jurisdiction for the purposes of Part 3 of Schedule 17 to the Financial Services and Market Act 2000 (c.8).
- (4) To satisfy the requirements of subsection (2), the Bank of England shall take into account—
 - (a) the circumstances in which the fee was charged;
 - (b) the payment methods of the fee;
 - (c) the services provided by the bank or building society; and
 - (d) the costs incurred by the bank or building society.

3 Enforcement

- (1) Enforcement of the provisions of section 1 of this Act shall be a function of the Bank of England who must annually inspect and audit the inventory of cash held separately in fully secured current accounts in order to ensure compliance with section 1 (4) above.
- (2) Failure to comply with the provisions of section 1 of this Act shall result in a financial penalty, calculated by the Bank of England in accordance with the following factors—

- (a) the effectiveness of the fine as a deterrent to both the bank or building society concerned and to other banks and building societies.
 - (b) the severity of the non-compliance;
 - (c) the nature of the non-compliance; and
 - (d) the reasons for the non-compliance.
- (3) Where the Bank of England imposes a financial penalty under subsection (2) it shall immediately give the bank or building society a decision notice in writing stating the amount of the penalty.
- (4) Once the Bank of England has given a decision notice in accordance with subsection (3), a bank or building society may refer the matter to the Financial Services and Markets Tribunal.
- (5) For the purposes of subsection (4), the following provisions of the Financial Services and Markets Act 2000 (c.8) apply to that Act—
 - (a) section 133 (proceedings of the Tribunal);
 - (b) section 137 (appeal on a point of law.)

4 Guarantees or insurance

- (1) The Bank of England shall be liable to customers for any breach of its statutory duties under section 3 above.
- (2) It shall be unlawful for any authority to apply public money towards the guarantee or insurance of any bank or building society account other than a fully secured current account.

5 Interpretation

- (1) In this Act—

Subject to subsection (4), “bank” means an authority deposit-taker that has its head office, or one or more branches, in the United Kingdom;
“building society” means a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986 (c.53);
“cash” means notes and coins of the currency in which the account is nominated;

- (2) In the definition of “bank” in subsection (1), “authorized deposit-taker” means—
 - (a) a person who under Part 4 of the Financial Services and Markets Act 2000 has permission to accept deposits;

(b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorization under paragraph 12 (1) of that Schedule) to accept deposits.

(3) A reference in subsection (2) to a person or firm with permission to accept deposits does not include a person or firm with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.

(4) “Bank” does not include-

(a) a building society;

(b) a person who is specified, or is within a class of persons specified, by an order under section 38 of the Financial Services and Markets Act 2000 (exemption orders);

(c) a credit union;

(d) a friendly society.

(5) In this section—

“credit union” has the same meaning as in the Credit Unions Act 1979 (c.34) (see section 1(1) of that Act;)

“friendly society” has the same meaning as in the Friendly Societies Act 1992 (c.40) (see section 116 of that Act).

6 Short Title, commencement and extent

(1) This Act may be cited as the Fully Secured Current Accounts Act 2008.

(2) This Act comes into force at the end of a period of three months beginning with the day on which this Act is passed.

(3) This Act extends to England and Wales only.

Fully Secured Current Accounts Bill (HL)

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