

Banking Supervision

5.31 pm

The Chancellor of the Exchequer (Mr. Nigel Lawson): With permission, Mr. Speaker, I should like to make a statement.

I am publishing today a White Paper setting out the Government's proposals for strengthening banking supervision, with a view to bringing a new banking Bill before the House early in the next Session.

The proposals contained in the White Paper reflect the vital importance that this Government attach to effective supervision. They build on the findings of the review of banking supervision that I set up exactly a year ago today under the chairmanship of the Governor of the Bank of England, in the wake of the Johnson Matthey Bankers debacle. Six months later, when the group's report was published, I told the House that the Government were minded to accept its two key recommendations. I can now confirm that both will be implemented.

First, the new legislation will extend to banks the higher supervisory standards that Labour's 1979 Banking Act applied only to licensed deposit takers, and not to recognised banks. That means that the so-called two-tier system will go. I have, however concluded that it would be right to confine the use of the name "bank" to institutions with at least £5 million in paid up equity capital.

Second, the Government will do whatever is needed to permit effective two-way communication between supervisors and bank auditors. If this can be done on the basis of agreed professional guidelines, underpinned by statute, well and good; if not, we shall not hesitate to take appropriate further powers.

However, assisted by the extensive consultations that have taken place since I made my statement to the House in June, I have become convinced that it would be right in a number of respects to go beyond the Leigh-Pemberton committee's recommendations.

The key to better supervision is the organisation and ability of the supervisors themselves. Last October, the Governor announced changes in the Bank's organisation to give supervision a higher priority. To carry that further, he will now set up, as soon as possible, a new board of banking supervision within the Bank of England. The board will be given statutory backing in the forthcoming legislation. It will be chaired by the Governor, and a majority of its members will be experienced practitioners from outside the Bank of England. That will bring independent outside expertise to bear at the highest level and give more forceful direction to the task of bank supervision. The board's views will be separately identified in the Bank's annual report, which I lay before the House.

Second, supervisors cannot do their jobs unless they have adequate, accurate and timely information. That was one clear lesson of the JMB affair. Under the existing legislation, it is not a criminal offence to mislead the supervisors, even if this is done knowingly or recklessly. I propose to make it one—with appropriate penalties.

As I told the House in June, one of the most conspicuous reasons for JMB's failure was that it was over-committed to a small number of closely related borrowers. Building on the Leigh-Pemberton committee's recommendation, I propose to make it a statutory

requirement for banks to notify all such exposures in excess of 10 per cent. of their capital base; and all exposures in excess of 25 per cent. will require prior notification.

Important as they are, rules of this kind are not enough. Supervisors need to have a better knowledge of individual institutions at first hand. I therefore welcome the steps that have recently been taken to increase the frequency of supervisory visits to banks, on a routine basis as well as where there are grounds for prudential concern.

The nature of banking is changing fast and the supervisory system has to keep up with it. We cannot prescribe for every eventuality in advance. In particular, there is a risk that new forms of deposit-taking may fall through the supervisory net. I therefore propose to take powers to vary by secondary legislation the definition of deposits and deposit-taking around which the legislation will continue to be structured.

I am also very conscious that banking supervision can no longer be considered in isolation. The Government are urgently considering the supervisory problems posed by the growth of financial conglomerates. One of the most obvious requirements is that those who supervise banks should be able to exchange information with other supervisory authorities. Legislation this session will make that possible. Changes in the confidentiality requirements, including those in the Banking Act, will be secured through the financial services and building societies Bills this session.

The details of these and other proposals are in the White Paper. They represent a considered, full and prompt response to the real lessons of the Johnson Matthey Bankers affair. The system of supervision we will be putting in place will be strict, without being a straitjacket. The proposals avoid the pitfalls of unnecessary bureaucracy and administrative upheaval. They also avoid the danger of setting out rules so rigid that they encourage compliance with their letter but not with their spirit.

As I told the House in June, an effective system of banking supervision is essential, not merely for the protection of depositors but for the financial health of the economy as a whole. Effective supervision is also a vital weapon in the fight against fraud, which the Government are determined to do all in their power to combat. Supervision cannot eradicate risk—nor should it—and it must not stifle competition. Nor, above all, can it derogate in the slightest degree from the overriding responsibility of managers to run their businesses soundly and properly.

Together with the Building Societies Bill, to be read for the Second time on Thursday, and the forthcoming financial services legislation, I believe that the proposals outlined in this White Paper will help to create a comprehensive and effective statutory framework for a rapidly changing financial services sector.

I commend the White Paper to the House.

Mr. Roy Hattersley (Birmingham, Sparkbrook): Does the Chancellor realise that outside the City and the Tory party the proposals that he has outlined will be regarded as grossly inadequate, a reflection more of the City's views and values than of the growing concern about supervision of the City in general and the banking system in particular? Will he understand that confidence will not be restored while the duties of supervision essentially remain within the Bank of England? Negligence in the Bank of England contributed to the Johnson Matthey scandal. When asked

to report on the lessons learnt from that affair, an inquiry dominated by the Bank of England made recommendations that even the Chancellor rejects; yet the power of supervision is to be given to the Bank of England.

While the Chancellor, in his own words, retains the powers "within the Bank of England", some of the proposals that we welcome and some of the proposals that our pressure brought about—such as the statutory backing and the extension of the criminal law to cover the misleading of supervisors—will be seen as generally inadequate.

I ask the Chancellor the basic question relating to his statement: Why must the board of banking supervision remain in the City's own club? Why can it not be created outside, with all the additional confidence that its independence would provide?

Will the right hon. Gentleman answer some specific questions? For example, when the supervisory body is told of an exposure of more than 25 per cent., what powers will that body possess? If it discovers that the bank in question is over-exposed, what can it do about it other than note it and worry about it?

What changes does the right hon. Gentleman propose in the confidentiality requirements? When shall we hear of them and when will they be passed into law? Indeed, does he appreciate the need for speed in this operation and the need to introduce the new legislation—the statutory backing—quickly to overcome any feeling that the Government do not want to tackle this matter urgently?

Do the Chancellor and the Leader of the House appreciate that the whole question of the supervision of the City is now such a matter of national concern that a debate in the House is urgently needed? Are they aware that, if the Government will not give time for such a debate, the Opposition will provide it at the first opportunity?

Mr. Lawson: My response to the right hon. Gentleman's last point is that I have set out in the White Paper important matters which I recognise the House might well wish to debate. However, that is a matter for the Leader of the House.

The right hon. Gentleman's categorisation of the measures which I have outlined, and which are outlined more fully, as inadequate, is wholly and completely untrue, but we shall, no doubt, have an opportunity to discuss that in the context of the forthcoming Bill.

The right hon. Gentleman asked some specific questions and made allegations about the Bank of England, allegations which I wholly reject. The JMB affair was a lapse, but a lapse from a very high supervisory standard which the Bank of England has carried out—*[Interruption.]*—over a number of years and which is recognised as such throughout the world.

The legislative framework which I am now tightening was put in place by the Labour Government. That framework, the 1979 Act, was inadequate. It took them five years—from the secondary banking crisis of 1974 until 1979—to legislate. I am proposing to legislate twice as fast after the JMB affair.

The right hon. Gentleman asked what the supervisory body could do. It has the ultimate power to revoke the licence of any bank to take deposits, and that is a very profound sanction indeed.

The answer to the right hon. Gentleman's question about the confidentiality requirements—I assume that he

was referring to the relationship between auditors and supervisors—is that he will see them set out in annex 4 at the back of the White Paper.

Sir William Clark (Croydon, South): Is my right hon. Friend aware that many people, in the City and throughout the country, will welcome the strengthening of the 1979 Act, particularly in bringing the banks under control and especially in view of the imminence of the Financial Services Bill?

Is he further aware that the flexibility between auditors and supervisors should ensure that any misdemeanour, or suggestion of misdemeanour, involving any deposit taker, be it a bank or any other deposit taker, will be immediately recognised? A two-way movement of information, from supervisors to auditors and from auditors to supervisors, will ensure that, if an investigation is necessary, it will be speedy and accurate. That should be wholeheartedly welcomed by the House and the City because it is essential to ensure that the integrity of the City is maintained.

Mr. Lawson: My hon. Friend is right. Communication between supervisors and auditors is an entirely new departure. Up to now, supervisors have not communicated with auditors and auditors have not communicated with supervisors. That will be changed, and I am grateful for the help of the various accountants' bodies in co-operating fully with the changes that we have in mind. Normally that communication will take place in the presence of the bank in question, but there is provision in exceptional circumstances for the communication to take place directly between the supervisors and auditors.

Mr. Ian Wrigglesworth (Stockton, South): Is the Chancellor aware that some of us argued long before the Banking Act 1979 was put on the statute book that the Bank of England should not be responsible for banking supervision? Will he therefore reconsider the role that the Bank of England will play? Although the establishment of the new board is a welcome step, will he confirm that all its members will be appointed by the Governor of the Bank of England? Does he agree that it would be much better if the Bank of England carried on its role as a central bank like other central banks and that the supervisory function should be carried out by an independent board? Will he consider that possibility? Will he also note that the other provisions in the statement are a welcome strengthening of the present regime?

Mr. Lawson: I note the points made by the hon. Gentleman. As a member of the Labour party, he was a supporter of the Bankers Act 1979. Appointments to the board of banking supervision will be made by the Governor, but they must be made with my approval. I believe that that answers his point. Whether the supervisory authority should be the central bank is a fair point. If the hon. Gentleman reads the annex to the White Paper about overseas experience, he will see that in some countries the supervisory authority is the central bank but that in others it is not. As we have always had the Bank of England as the supervisory authority, I believe that it is better to build on and strengthen that authority rather than to have a tremendous upheaval which I do not believe would be warranted or fruitful.

Mr. Terence Higgins (Worthing): Does my right hon. Friend agree that his statement will be greatly welcomed, because those of us who are anxious that the City's

[Mr. Terence Higgins]

reputation should not be damaged by abuses of the system feel that the steps that he proposes will be helpful? Would it not be extraordinarily dangerous at this stage to set up an entirely separate organisation with no experience of those matters rather than to build on the Bank of England's foundation? Will he give us an assurance that we shall not have to wait for the legislation to be introduced before positive steps are taken to improve the present position?

Mr. Lawson: My right hon. Friend is correct, and I welcome his remarks. Steps have already been taken. Mr. Sidney Proctor has been appointed special adviser on supervision to the Governor. He is an extremely experienced and distinguished commercial banker who has retired and can devote a great deal of time to the matter. The Governor has also strengthened numerically and in other ways the Bank of England's banking supervision department. In addition, the establishment of the board of banking supervision will not have to wait for the legislation. The Governor proposes to get on with that straight away.

Mr. Brian Sedgemore (Hackney, South and Shoreditch): Bearing in mind that this statement arises in large measure out of the wanton negligence of Robin Leigh-Pemberton, the Governor of the Bank of England, how can anyone place any trust in a system of supervision organised by that appalling deadbeat? Is it not time that the Chancellor of the Exchequer had the bottle to tell the Prime Minister that Pemberton is not merely a disaster; he is a disgrace?

Mr. Lawson: There has been a great deal of talk about fraud of one kind or another. Fraud must be rooted out wherever it is found. Fortunately, it takes place only in exceptional circumstances in the City of London. It is wrong to imply otherwise.

The biggest fraud so far exposed is the hon. Member for Hackney, South and Shoreditch (Mr. Sedgemore). He poses as the man who got things moving. [Interruption.] Listen to this. He did not even start—*Hansard* will show that this is so—his seemingly unending series of allegations until after my statement of 17 July informing the House that the fraud squad had already been called in. By engaging in a scurrilous McCarthyite smear campaign under the cloak of parliamentary privilege to further his sordid political objectives, the hon. Gentleman is succeeding only in damaging the good name of the City to the delight of our competitors overseas, and in impeding the police in their attempt to bring wrongdoers to court, as the police have already pointed out to him. To describe the hon. Gentleman as a pest would be unfair to pests.

Sir Peter Tapsell (East Lindsey): While any illegalities must be vigorously hunted down and their perpetrators suitably punished—

Mr. Sedgemore: You snivelling little git.

Mr. Speaker: Order. I prefer not to hear all of that.

Sir Peter Tapsell: Those of us who most abhor the scandals in the City at present sometimes find the interventions of the hon. Member for Hackney, South and Shoreditch (Mr. Sedgemore) to be counter-productive. While any illegalities must be hunted down and their perpetrators suitably punished, should we not, even in the present political atmosphere, be careful to bear in mind

that the Bank of England is an extremely important national asset, particularly in the international sphere where on many occasions it has saved past Labour Governments? Indeed, if there is ever another, Labour Government, they will probably look to it to save them again. Should we not bear that in mind when scoring short-term party political points? My personal belief is that the Bank of England is, in the British context, the appropriate body to continue to conduct banking supervision.

Mr. Lawson: I entirely agree with my hon. Friend. As he will have heard, I reached the same conclusion.

Mr. Ron Leighton (Newham, North-East): Will the Chancellor of the Exchequer explain where market forces end and fraud begins?

Mr. Lawson: If the hon. Gentleman does not know that, he is not fit to be a Member of the House.

Sir Peter Hordern (Horsham): Will my right hon. Friend consider whether it should be the duty of the auditors of the day to report independently to the bank's supervisors without the knowledge of the bank, if necessary?

Mr. Lawson: That is a difficult question, and my hon. Friend is right to raise it. I believe that that would place considerable difficulties in the way of auditors. My conclusion is that it is better to adopt the normal procedure, and that the auditor and supervisor should have their dialogue in the presence of the bank in question, while reserving powers, if need be, in special circumstances for there to be a direct dialogue between auditors and supervisors without the presence of the bank.

Mr. D. N. Campbell-Savours (Workington): Will the Chancellor consider adopting in the Bill the principle that I have been advocating for defence contractors who make excess profits, whereby if an employee identifies fraud he should be compensated from the public purse?

Mr. Lawson: The hon. Gentleman is an assiduous Committee member, as I know from experience on many occasions in Standing Committees on Finance Bills of old, and I am sure that he will find himself in Committee on this Bill, when he can make that point. However, I do not think that that would be a sensible proposal.

Mr. Peter Rees (Dover): Does my right hon. Friend agree that the Governor of the Bank of England is a distinguished and honourable public servant who deserves better of the House than to be traduced by the vulgar criticisms of the hon. Member for Hackney, South and Shoreditch (Mr. Sedgemore)?

Mr. Lawson: I agree strongly with my right hon. and learned Friend. It is appalling how the hon. Gentleman seeks to traduce the Governor of the Bank of England, the Bank of England and the entire City of London to further his political objectives. It can mean only that people in Tokyo, Frankfurt, Zurich and other places will laugh all the way to their banks.

Mr. John Ryman (Blyth Valley): Will the Chancellor consider calmly and quietly for a moment what real sanctions there are, apart from the ultimate sanction of revocation of the licence, if the supervision board finds negligence or fraud? A complaint to the police takes a long time to investigate, and the resources of the fraud squad

are far too limited to cope with the mass of complaints that emerge from time to time and that require thorough and lengthy investigation.

Mr. Lawson: As I announced, the legislation will create a new offence of misleading the supervisors for which there will be severe penalties, substantial fines or imprisonment. I announced as far back as July 1984 the Government's decision to set up a fraud investigation group, which was before the Johnson Matthey Bankers affair, and which has considerably strengthened the Government's and the authorities' resources for pursuing fraud wherever it may be.

Mr. Alex Fletcher (Edinburgh, Central): I welcome my right hon. Friend's statement, but I should like to press him a little further on the question of resources. I am sure that he will agree that more staff will be needed and will have to be sufficiently qualified as accountants, lawyers, bankers and others, not just in banking supervision but in insurance and other things as well. Can he assure the House that, in attracting people of the right quality, there will be no Civil Service-type restrictions on the grades at which they can be employed so that they can come into the business and do a proper job?

Mr. Lawson: It is important that those who are engaged in the seeking out and prosecution of fraud, whether in the Department of Trade and Industry or in the Department of the Director of Public Prosecutions, must be of sufficient calibre, and that is something that the Government will unstintingly seek to achieve.

Mr. Allan Rogers (Rhondda): Will the Chancellor accept that his proposal will be seen by the public at large as following the old principle of "set a thief to catch a thief"? Will he suggest ways in which he might undertake some positive screening of the people who will be on the supervisory board?

Mr. Lawson: The hon. Member should know that I have suggested a considerable strengthening of the system of banking supervision, which has a good record. That is widely acknowledged throughout the world. The JMB affair was a lapse from its high standard. The measures that I have announced will strengthen it still further and make it better than any other banking supervision system.

Mr. Tim Smith (Beaconsfield): Are not these proposals tough and comprehensive—much more so than anything proposed by the Labour Government of which the right hon. Member for Birmingham, Sparkbrook (Mr. Hattersley) was a member? Is not the real danger that, if we go too far, 2 million jobs and £6 billion worth of exports will be threatened as financial services companies move offshore?

Mr. Lawson: My hon. Friend is right—there is a real danger of that. I do not ask anybody to pronounce now, but I hope that when hon. Members have read the White Paper and seen what is proposed they will desist from uninformed criticism, which can only be bad for the country.

Mr. Stuart Randall (Kingston upon Hull, West): I am sure that the Chancellor will agree that the various fraud cases about which we have heard recently have reduced in the eyes of the British public confidence in the City and all the other institutions. Does he agree that, in order to

regain that confidence, it would be desirable to publish some of the findings of the new board of banking supervision? Will that happen, and, if so, to what extent?

Mr. Lawson: The board of banking supervision will make an independent report of its own, to be contained within the annual report of the Bank of England. What it chooses to report will inevitably be governed by the laws concerning banking confidentiality.

Mr. Anthony Beaumont-Dark (Birmingham, Selly Oak): Does my right hon. Friend agree that the Bill that he has announced today could be tough, along with the Financial Services Bill, and that the need for that is because of the huge financial conglomerates that will come about and may spawn things of which many in the City will not have experience. Bearing in mind also that the Bank of England is an adviser to the Chancellor of the Exchequer, would it not be a sensible move if the Chancellor imported into his Department some people of great expertise in the City—although not those who are likely to go back to the City, who may have something else to gain? Would it not be a good idea if three or four people who have spent their lives in the City and understand it and the Treasury were there so that they could give five to seven years of good advice to prevent many of these things from happening? In the end is it not right that the buck stops here? Whenever there is a scandal, the Government cannot say that it has nothing to do with them. If it is in the end, therefore, to do with Government, is it not better for the Chancellor to have his own team of experts on hand to handle his advice?

Mr. Lawson: I am grateful to my hon. Friend. I am quite sure that he means well, as he always does, but I have to say two things to him. First, I have every confidence in my officials in the Treasury. Secondly, the duty of supervising British banks is not laid upon the Treasury but is laid, and will be quite clearly laid by the legislation to which I have referred, on the Bank of England. Therefore, there will be a duty laid on the Bank of England to have supervisory staff of the appropriate quality and calibre and also to have independent outsiders to ensure that there is a strengthening of the enforcement of supervision at the top.

Several Hon. Members rose—

Mr. Speaker: Order. I have to protect the subsequent business of the House. The Chancellor announced that there will be a debate. However, I draw to the attention of the House the fact that there will be an opportunity tomorrow to debate this matter on the Consolidated Fund Bill under item no. 3.

Mr. Rob Hayward (Kingswood): On a point of order, Mr. Speaker. May I ask that during the Christmas recess you should ask that all speeches should be looked at, given the language used by the hon. Member for Hackney, South and Shoreditch (Mr. Sedgemore), aimed at the Chancellor of the Exchequer? It described him as a snivelling little git. It was clearly audible in the Chamber and such language is clearly disgraceful and unparliamentary.

Mr. Speaker: Order. In a highly charged atmosphere I did not hear all that was said and I do not think that it was directed at the Chancellor of the Exchequer. Although it may not, in strict terms, be unparliamentary language, it is not the kind of language that we want to hear in civilised debate.

Mr. Dennis Skinner (Bolsover): On a point of order, Mr. Speaker. You probably heard the Chancellor of the Exchequer say in response to the question of my hon. Friend the Member for Hackney, South and Shoreditch (Mr. Sedgemore) that questions on these matters had not been put down until July. May I remind you that I put down questions on 23 October 1984? For that reason, I thought that there might be a chance to explain that in a question to the Chancellor.

Mr. Speaker: That is bad luck on the hon. Gentleman. However, he is one of the hon. Members who has applied for a debate on the Consolidated Fund, and he stands a very good chance of being called.

Mr. Richard Holt (Langbaugh): Further to the point of order raised by my hon. Friend the Member for Kingswood (Mr. Hayward), Mr. Speaker. Whether or not the atmosphere was charged the remark was clearly audible throughout the Chamber. Will you use your good offices, Mr. Speaker, to call upon the hon. Gentleman to withdraw it?

Mr. Speaker: Order. First, I do not know which hon. Gentleman made that comment. Unfortunately, or perhaps fortunately, under this canopy I do not hear everything.

Mr. Sedgemore: On a point of order, Mr. Speaker. In view of your reference to civilised debate in the House, I wonder whether you could strike a balance between an East End epithet and an allegation. I have told the truth. Since when has the truth been a McCarthyite smear?

Mr. Speaker: Order. I must say to the hon. Gentleman and to all other hon. Members that we should take great care about imputations concerning the characters of others who are not in the House.

Supplementary Benefit (Board and Lodging Payments)

4.3 pm

The Minister for Social Security (Mr. Tony Newton): With permission, Mr. Speaker, I should like to make a statement about the position concerning supplementary benefit board and lodging payments following the Court of Appeal decision last Friday.

As the House will be aware, the court upheld Mr. Justice Mann's decision in the Divisional Court on 31 July that there was no power to make two paragraphs of the regulations passed by the House in April. The court rejected a cross appeal that the Social Security Advisory committee had not been properly consulted before the regulations were made.

The House will wish to know that the Government do not intend to appeal further. We shall take steps to identify from our records those cases in which arrears may be due because we did not meet the full charge, and to pay these arrears as soon as possible. To this end, we have sought and received from the court today further guidance on how such arrears should be assessed.

I should make it clear that the Court of Appeal judgment does not affect the current benefit position of those in board and lodging. Those payments are covered by the fresh regulations agreed by the House last month which came into effect on 25 November.

Mrs. Margaret Beckett (Derby, South): Is the Minister for Social Security aware that his statement, both in its nature and in its perfunctory length, is an insult to the House and, much more than that, that it is an insult to the thousands of elderly, handicapped and vulnerable people who have been illegally cheated and short-changed by the Government since the regulations came into effect? How dare the Minister come to the Dispatch Box to make that statement and utter not one word of apology or explanation for all the suffering that has been caused. It is not even as if the Government can complain that they have not been warned. Initially when the regulations were introduced the Social Security Advisory Committee heard from over 500 organisations that wrote to condemn the proposed regulations. It was the largest number ever to condemn such proposals, apart from those who wrote to condemn the Fowler reviews.

We should like the Minister to say, first, whether it is the case, as he claims in his statement, that the Government sought clarification from the court or whether, as we have been informed, the Government tried once again to put pressure on the court to weaken the judgment that had been delivered so as to deprive claimants. Will the Minister admit that if the Government had accepted the plain implications of the judgment—that cash limits also are illegal—not only would many claimants have been saved hardship but his Department's task in identifying those who should have repayments would have been made singularly easier?

Secondly, will the Minister tell us how his Department proposes to trace those who are owed money? Does he understand that it would be completely unacceptable and grossly unjust to place the burden of the claim upon individuals rather than upon his Department in seeking to identify them?