FINANCIAL SERVICES AND MARKETS BILL

COMMITTEE STAGE, HOUSE OF LORDS

Time to end the money pipeline driving global deforestation and deliver a green UK economy

January 2023

Further detail and assistance

Committee Stage sessions of the Bill will take place 25 January, 30 January, and 1 February.

For assistance or further information, please contact Veronica Oakeshott, Head of the Forests Campaign, voakeshott@globalwitness.org

The Financial Services and Markets (FSM) Bill is a 'once-in-a-generation' redesign of UK financial regulation. This is a crucial opportunity to secure a nature-positive economy and stop deforestation funded by the UK financial sector.
To realise this potential, we urge you to support Amendment 199 tabled by Lord Randall, Lord Tunnicliffe, Baroness Sheehan and Baroness Boycott.

Amendment 199 introduces due diligence obligations for UK financial institutions, to prevent the financing of commodities, businesses and activities that destroy climate-critical forests and the lives of local communities and indigenous peoples who depend on them.

WHY IT IS NEEDED

The UK is a leading financier of global deforestation and linked human rights abuses:

- UK banks and asset managers provided an estimated $16.6 billion to businesses implicated in deforestation between 2015-2020, making an estimated $192 million (£147 million) in profit according to Global Witness.
- Over £300 billion of UK pension money is invested in high deforestation risk companies and financial institutions, according to Make My Money Matter.
- The UK financial sector faces up to £200 billion in risk exposure to Brazilian beef and soy and Indonesian palm oil supply chains alone, according to WWF.

As a result, climate-critical tropical forests are shrinking, driving biodiversity loss and threatening thousands of iconic species with extinction. Experts say commodity-driven deforestation must be ended by 2025 at the latest to limit global warming to 1.5°C. Agricultural expansion drives more than 90% of tropical deforestation.

Human rights abuses, corruption and illegality is rampant in the agribusiness sector. An estimated 69% of land conversion for agriculture was illegal between 2013-19. One land and environmental defender was killed every two days on average over the past decade, according to Global Witness. Indigenous peoples are significantly overrepresented among the victims.

Existing blueprint, high level backing

Similar legislation, Schedule 17 of the Environment Act of 2021, established new due diligence obligations for large companies to prevent the import of 'forest risk commodities' such soy, palm oil and beef grown on land illegally deforested under local law. The government's own expert Global Resource Initiative (GRI) Taskforce recommends extending this system to financial institutions.

Sir Ian Cheshire – former Chair of Barclays and the Head of the GRI Taskforce – has recently written an open letter reaffirming the need for new due diligence powers:

"In essence, our regulations should ensure financial institutions do not directly or indirectly fund or support deforestation linked to forest risk commodities. In practice, this means that financial institutions should be required to assess and identify environmental and human rights risks and impacts within their portfolios and take action to prevent or mitigate those risks and publicly report on progress…. I encourage you to revisit our independent recommendations and consider them in relation to the Financial Services and Markets Bill."

The amendment has significant cross-Party backing in the House of Commons. A version was tabled by Conservative Chris Grayling MP (see NC24) and received support from the Labour frontbenches as well as MP spokespeople from the Liberal Democrats, Greens, DUP and Plaid Cymru. Currently, the Bill does not deliver the 'net zero financial centre' and 'nature-positive economy' promised by the government.

The government's response to the amendment

The government has responded to the amendment by claiming that the voluntary risk-reporting framework being developed by the *Taskforce on Nature-related Financial Disclosure (TNFD)* will stop UK financial institutions making these deforestation deals in the future.

Baroness Penn said at Second Reading: *"…financial institutions rely on the information disclosed by companies trading in these forest-risk commodities in order to take action, so a global framework for this disclosure is needed to make any action by UK financial services and firms overseas workable. That is exactly why we are a leading backer on the Taskforce on Nature-related Financial Disclosures."*

However the Government's own expert Taskforce on deforestation the GRI, explicitly rejected the TNFD's disclosure-based model as a solution and told the government that new due diligence laws are needed to stop UK finance flowing to deforestation abroad instead.

Financial institutions already have ample available due diligence tools and information about their exposure to deforestation and human rights abuses, they do not need to wait for TNFD. In addition, the introduction of mandatory due diligence for large companies under Schedule 17 of the Environment Act has already created the necessary disclosure platform for financial institutions to access enhanced information in the future. TNFD is not required to do this.

Banks choose to lend to companies engaged in deforestation because they can get away with it under existing financial regulations in the UK.

TNFD will not stop the financing of deforestation because:

- TNFD is not preventative, unlike due diligence. Reporting on deforestation financing is not the same as reducing it.
- TNFD is designed to help companies identify threats to their profitability, not harm to nature.
- Financial institutions will keep the profits of deforestation under TNFD.
- The theory of change is wrong: a lack of data or awareness is not the problem.

Read more on why the government is wrong to rely on TNFD here.

Amendment 199 takes a step towards delivering on our global commitments: COP15 and COP27

The Global Biodiversity Framework negotiated at COP15 and signed by UK includes a target for governments to introduce new regulations for financial institutions to 'Regularly monitor, assess, and transparently disclose their risks, dependencies and impacts on biodiversity' across their operations, supply and value chains and portfolios. This amendment takes a step towards supporting that commitment.

At COP26, **the Glasgow Leaders' Declaration on Forests and Land Use** saw 145 countries, led by the UK, commit to halting and reversing deforestation and land degradation by 2030 'including by re-aligning financial flows'. It's time for us to act on our promises.

Calls for action are building. At COP27, the UN's High-Level Expert Working Group on Net Zero recommended new domestic regulations to stop the financial sector investing in deforestation. The UN Secretary General called time on ineffective voluntary pledges to stop deforestation.

The importance of tackling financial flows to deforestation and associated abuses

The UK could take a major step towards a world-leading green finance framework by introducing mandatory deforestation and human rights due diligence for UK financial services. Deforestation, biodiversity loss, climate change and linked human rights abuses pose a material risk to the UK's financial stability, as well as individual financial institutions:

Limiting global temperature rises to 1.5°C will only be possible if the UK financial sector stops bankrolling deforestation. The agriculture, forestry and land use sector produce almost a quarter (23%) of all global greenhouse gas emissions. Deforestation is a 'top priority area' in the UK's Net Zero Strategy.

Urgent action is required to end all commodity-driven deforestation by 2025 and all land conversion by 2030 at the latest. Binding net zero targets under the Climate Change Act are jeopardised by the City of London's role in deforestation financing.

Schedule 17 of the Environment Act, passed last year, is not enough to stop the UK's leading role in global deforestation. The government has legislated to limit the deforestation impact of imported agricultural commodities not produced in compliance with local land-use laws but chose to wait for a financial regulation bill to regulate the UK financial sector. The FSM Bill is the most appropriate legislation to introduce these powers. Companies funded by UK-based financiers do not necessarily supply the UK market, therefore separate financial regulation is essential to ending the UK's contribution to global deforestation.

UK laws should prevent the financing of human rights abuses and *all* deforestation, ecosystem conversion and degradation. British financiers must be stopped from investing in all deforestation, degradation, ecosystem conversion *and* human rights abuses. Deforestation has the same climate and human rights impact whether the underlying activity is legal or not.

Human rights protections are integral. Violations of the rights of indigenous peoples and local communities is often a precursor and driver of deforestation, so protecting their rights keeps forests standing.

Further amendments for your consideration

We also encourage you to support the amendment to ensure the financial sector supports delivery of the UK's nature and climate targets in law, and that climate and nature are at least given the same priority as competitiveness and growth within financial regulation.

Currently, the Bill forces regulators to prioritise 'competitiveness and growth' over supporting the delivery of the UK's nature and climate targets in law. Although the Bill includes a 'regulatory principle' on net zero, this is insufficient because regulators must only take this '*into account* when pursuing their statutory objectives'.

The government's Greening Finance Roadmap is designed to ensure financial actors 'factor climate-change into every investment decision'. This is unachievable under existing financial regulation and climate change will cost UK banks more £340 billion by 2050 if action is severely delayed, according to the Bank of England.

Rishi Sunak has promised the UK will be the first net zero financial centre. Now is the time for delivery.

Embedding net zero and nature alignment within the UK's regulatory framework is an important first step towards aligning the financial sector with the goal of limiting global warming to 1.5 degrees. This is in the country's economic and security interest:

- The Dasgupta Review called for the reorganisation of the UK economy, leading HM Treasury to commit to a 'nature-positive' economy in 2021.
- The Environmental Audit Committee has called on the government to place nature and net zero at the centre of UK financial regulation.
- The Climate Change Committee says financial regulations should incorporate climate risk.