

UK Financial Services Bill 2009

In November 2009, the government introduced a Bill into Parliament to address some of the problems that had been identified in the banking crisis. The Bill contains a number of sensible measures which will strengthen the Financial services Authority that regulates the financial services industry in the UK. However, the Bill also contains clauses that would introduce collective litigation in this sector of the economy. [I.E. such litigation would be available against banks and financial institutions such as insurance companies, but it would not be a generic right available in every sector of the economy.]

EJF is strongly opposed to the introduction of collective litigation in this manner. First, the UK Financial service Authority is already a strong and sophisticated regulator that has proved its ability to resolve thousands of complaints received by it. The additional powers proposed by the Bill would make the regulator event stronger. There is no need for collective litigation to gain redress in this sector,

Second, the manner in which the collective litigation proposals are being introduced is – in EJF’s view – unacceptable. The matter is being rushed through Parliament without proper debate; the Bill lacks the safeguards that are essential in collective litigation; and there is no detail as to how this right of action would work.

In reality, there is a very strong likelihood that the Bill will not have time to complete its path through Parliament before a general election is called. In this event, it will go into a so-called “wash-up” session, in which the government agrees with the other parties how the Bill is to be treated. It is EJF’s aim to delete (or at least substantially amend) the provisions relating to collective litigation at that stage.