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Miscellaneous powers

The White Paper then set out some additional miscellaneous powers to be contained in the legislation, including anti-money laundering provisions, a clause limiting liability and a power to share information to support the implementation and enforcement of sanctions.

We asked the following question:

Consultation question 9. What are your views on the design and extent of the proposed “no-claims clause”?

9.1 94% of the respondents who directly addressed this question supported the proposal to limit liability for those complying with sanctions, although some did so with caveats. There was also strong support for the proposed “no-claims clause” from participants in roundtables. No respondents opposed this proposal, although some respondents offered general comments which we have addressed below.

9.2 Some respondents were concerned that the limitation of liability should be restricted to acting in “good faith” to avoid encouraging de-risking by financial institutions, while others thought the clause should be broader to cover all potential activity related to sanctions compliance. There was a consistent demand for clear guidance.

9.3 One respondent asked for clarification of what activity this clause would cover.

9.4 Some respondents argued that the proposal to limit the damages payable to those successful in challenging their designation was unnecessary. They suggested that the Human Rights Act 1998 already provided sufficient protection for the government.

Our response

9.5 In line with the feedback received in this area, the government intends to take powers to limit liability for those who comply with sanctions, in a way that protects those implementing sanctions in good faith.

9.6 The clause would ensure that such persons are able to comply with their obligations under the law, and act in accordance with the prohibitions and requirements of sanctions regimes made under the bill, without having to take further steps to protect themselves from litigation as a result of their compliance activities. This is in line with current EU practice to limit liability where people act to comply with sanctions in good faith. We would seek to ensure that the obligations on those persons or entities who implement UK sanctions are equivalent to those outside the UK.

9.7 The government also intends to put limits on the ability of a designated person to seek compensation in respect of a successful challenge to designation. This will be done in a way that is consistent with the Human Rights Act 1998.

Information sharing

9.8 Several respondents emphasised the need for the government to ensure it had sufficient power to share information as necessary, both with other governments and the private sector, to promote sanctions compliance. Some were more cautious and wanted the government to ensure there was clear guidance about these powers and that any information sharing was compliant with all relevant data protection legislation.