



Minutes

Meeting date: 5 February 2013

Meeting time: 10.00 am

Location: HM Treasury, 1 Horse Guards Road, London – Room G/26

Government

members present:

HM Treasury David Lunn (Chair);
Jayne Breckon; Jamie Barber

Bank of England Lauren Anderson; Mike Thornley

Financial Services Authority Stephen Drayson

Insolvency Service Paul Mayo

Industry

members present:

Association of British Insurers Michael McKersie

Association of Business Recovery Professionals Richard Heis

Association of Financial Markets in Europe Oliver Moullin

British Bankers Association Roger Brown

Building Societies Association Jeremy Palmer

City of London Law Society Dorothy Livingston

Financial Markets Law Committee John Whelan; Roland Susman

International Swaps and Derivatives Association Peter Werner

Investment Management Association Guy Sears

Secretariat: James Fraser; Zakia Ahmad (HM Treasury)

Apologies: Rob Beattie (BBA); Joanna Perkins (FMLC);
Eleanor Beamond-Pepler (FSA);

Agenda Item 1: Minutes of meeting on 4 September 2012

- 1.1 Panel members agreed the draft minutes.

Agenda Item 2: Revised Remit for the Banking Liaison Panel following the commencement of the Financial Services Act 2012

- 2.1 Changes made to the remit of the panel in FS Act 2012 will come into force later in the year. This includes a statutory requirement to include investment forms and group companies. It is also the Treasury's intention to refer matters relating to the resolution regime for clearing houses to the panel, in accordance with the general provisions of the remit. The Panel agreed these changes.
- 2.2 The Panel agreed that it would not be necessary to set a sub-group to deal with these new resolution issues, but asked the Treasury to consider including representatives of Exchanges to become members of the Panel.

Actions

- HM Treasury to revise BLP Terms of Reference to reflect revised remit.
- HM Treasury to invite Exchanges to nominate representatives to become members of the Panel.

Agenda Item 3: Non Bank Resolution – Secondary Legislation

- 3.1 Following consultation in summer 2012, and primary legislation in the Financial Services Act 2012, HM Treasury is preparing secondary legislation to determine the resolution regime for investment firms, central counterparties and banking group companies
- 3.2 Jayne Breckon (HM Treasury) introduced a paper outlining 5 statutory instruments to be introduced later this year (expected June/July 2013) to establish the new resolution regime for non-bank financial institutions.
- 3.3 Regulations covering **partial property safeguards**, **no creditor worse off**, and **extension of the BAP to non-banks** are anticipated largely to involve procedural adjustments to the Banking Act 2009 sections, and detail will be available later in the year. BLP was asked to consider two substantive areas:
 - 3.3.1. **Power to exclude small investment firms:** HM Treasury asked for the BLP's views on intending to adopt the €730,000 limit from the Capital Requirements Directive, as also proposed in RRD, to exclude small investment firms from the new resolution regime introduced in the Financial Services Act 2012. For smaller, but systemic, firms, a proportionality test would be applied. Panel members agreed that the power to exclude some firms was welcome, and this limit appropriate. It was noted that in the recent Lehman case, the cost of a resolution approach would have been low when compared to a standard insolvency approach. Lauren Anderson (BoE) confirmed that international work is ongoing between the US and UK to make RRD commercially viable and that she was aware of investment forms' concerns about this. HMT raised the question of whether a further proportionality test should apply to further reduce the number of firms.

3.3.2. **Specification / exclusion of financial institutions relevant to group powers:** HM Treasury proposes to use this power where a company is in the same group as another which is subject to the resolution regime, if it is – or is a subsidiary of – a parent company of one whose business (or that of its subsidiaries) is wholly or mainly in financial services; and that the lowest qualifying parent company be taken for this purpose. Panel members stressed the importance of clarity on this for the markets. Dorothy Livingstone (CLLS) asked for confirmation of the Government’s intentions to give clarity to lenders which might be in the scope of these powers. HM Treasury confirmed that it was their intention to introduce regulations to apply the same safeguards as those that apply to banks – i.e. no creditor worse off and partial property transfer.

3.4 The relevant Statutory Instruments will be prepared in draft form later in the year. A further update on progress will be given at the May 2013 BLP meeting.

Actions

- HM Treasury to inform BLP members when draft SIs on non-bank resolution regime are available.

Agenda Item 4: Information and Progress updates

4.1 **Resolution challenges from work on living wills:** Lauren Anderson (BoE) confirmed that the Bank would consider these issues as part of its ongoing work on ‘living wills’ for financial institutions.

4.2 **Sub-group on Small Companies and the Safeguards Order:** Dorothy Livingstone confirmed that further work was needed with the BBA before they could return to the Panel with comments on the previous proposals. Dorothy also commented on potential damage which depositor preference might have if introduced as part of the future regulatory regime.

4.3 **Review of the SAR for Investment Firms:** David Lunn confirmed that Peter Bloxham was nearing the end of Phase 1 of his Review, and was expecting to complete his second phase in the summer. His emerging findings will be considered at a future BLP meeting.

Actions

- Sub-group on Small Companies and the Safeguards Order to present a paper to a future meeting.
- HM Treasury to invite Peter Bloxham to consult BLP on the second phase of the SAR Review.

Agenda Item 5: Any other business

5.1 HM Treasury confirmed that progress continues to be made on RRD under the Irish Presidency of the European Council (January-June 2013), but that it was not possible to give a definite timeline for agreement to the Directive.

Next Meetings:	7 May 2013 at 10.00 am 30 July 2013 5 November 2013
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