



**Minutes**

**Meeting date:** 5 November 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; Elizabeth Cowell;  
Nikkita Patel; David Hunter;  
Catherine McCloskey;  
Leo Hodes (TLA)

*Bank of England* Peter Brierley,  
George Johnston

*Prudential Regulatory Authority* Venetia Wingfield

*Financial Conduct Authority* Heather Pilley

*Insolvency Service* Paul Mayo  
Muhunthan Vaithianathar

**Industry members present:**

*Association of Business Recovery Professionals* Richard Heis

*Association of Financial Markets in Europe* Oliver Moullin

*British Bankers Association* Simon Hills

*Building Societies Association* Jeremy Palmer

*City of London Law Society* Dorothy Livingston

*Financial Markets Law Committee* Jennifer Enwezor

*International Swaps and Derivatives Association* Peter Werner  
Ed Murray

*Investment Management Association* Guy Sears

**Secretariat:** James Fraser; Zakia Ahmad (HM Treasury)

### **Agenda Item 1: Panel administration**

- 1.1 Draft minutes of the meeting on 30 July 2013 were not yet ready for circulation.

### **Agenda Item 2: Bail-in stabilisation option**

- 2.1 The Treasury outlined the proposed bail-in option which had been included in the Financial Services (Banking Reform) Bill during Lords Committee Stage in October. Papers had been circulated, which included a draft Annex to the Code of Practice, on which Panel members' comments would be welcome by email.
- 2.2 One Panel member raised a concern that although not opposed to the powers, the overall scope of bail-in is wider than that of the EU Banking Recovery & Resolution Directive (BRRD). HM Treasury confirmed that the intention is to harmonise with BRRD.
- 2.3 Panel members noted issues concerning excluded liabilities, central counterparties, and interaction with schemes such as the FSCS. One Panel member asked about the role of the bail-in administrator – whose primary purpose would be to hold shares in the interim period and then any other roles assigned to them by the Bank of England, such as drafting of the re-organisation plan.
- 2.4 The Bank of England noted that there would be a set of mandatory exemptions and a set of discretionary exemptions, and this was expected to be dealt with on a case-by-case basis, which caused some concerns about legal certainty.
- 2.5 A Panel member asked whether the UK was pressing for the BRRD implementation date to be brought forward. HM Treasury said it want this to happen soon, and from a UK perspective, the industry was already expecting a bail-in power before 2018; however if a bank failed, the powers could be brought forward more quickly and it was likely that any EU member state would want to do so. The earliest point is that the bail in powers could commence in the UK would be 2 months after the current Bill receives Royal Assent (March/April 2014); but there would then need to be a further stage of harmonising with the final text of BRRD which would not be agreed until later.
- 2.6 Panel members noted potential difficulty in operating these provisions, and the need for relevant expertise at the bank of England. The Bank of England said they are aware it may be difficult to bail in derivatives and confirmed that there are sufficient specialists at the Bank to lead on this. The Bank of England also noted that legally the power is there but there are some challenges to work around.
- 2.7 Another Panel member noted proposals for the use of special bail-in provisions in the draft Code of Practice. HM Treasury said that the intention was that the BoE would maintain discretion over whether or not to use these powers.

### **Agenda Item 3: Non-bank resolution: draft secondary legislation**

- 3.1 The Treasury had circulated a consultation paper, which was currently running until 21 November. The Treasury noted that these changes would require revisions to the Code of Practice, and it was expected to bring a draft of that to the Panel during 2014.
- 3.2 One Panel member thought the proposals to deal with conglomerates were sensible and that the question around floating charges was a relevant one. Another Panel member

noted that collateral charges would be the most important aspect of this for their members, and that they were still finalising their formal response to the consultation on those points.

- 3.3 A Panel member noted that use of the £730k threshold would make it clear which investment firms were subject to the regime, though there may be some threshold issues.

**Agenda Item 4: Information updates**

- 4.1 Special Administration Regime for Payment & Settlement Systems: The Treasury gave an update on progress since the consultation, and plans to publish a summary of responses.
- 4.2 Review of the Special Administration Regime for Investment firms: The Treasury reported that Peter Bloxham is continuing his work on the Phase 2 of his Review, which should be ready by close of 2013, and would be discussed at a future meeting of the Panel.

**Agenda Item 5: Any other business**

- 5.1 A Panel member noted that there was an anticipated reduction in the number of investment firms in the UK, which would cause changes in the structure of the industry.

<b>Next Meetings:</b>	4 March 2014
	3 June 2014
	9 September 2014
	2 December 2014