HM TREASURY

Financial sector resolution:

summary of responses

October 2012

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1 Introduction

1.1 On 1 August 2012, the Government published the consultation document *Financial sector resolution: broadening the regime*. The UK already has in place a special resolution regime (SRR) for banks, as well as enhanced capital and liquidity regimes. However, as the consultation paper explained, banks are not the only part of the financial system. Other types of financial institution, such as systemically important non-bank financial institutions and financial market infrastructures (FMIs), could also pose serious risks to both financial markets and the wider economy if there is no way for them to fail safely. The consultation set out a series of proposals and questions on enhancing the mechanisms available for dealing with the failure of systemically important 'non-banks'.

1.2 Specifically, the consultation covered four broad groups:

- investment firms and parent undertakings;
- central counterparties (CCPs);
- non-CCP financial market infrastructures (non-CCP FMIs); and
- insurers.

1.3 The consultation closed on 24 September 2012, during which time the Government received forty-five written responses from industry and individuals, and met with a wide and varied range of industry stakeholders. This document provides a summary of the responses received and explains the Government's intended next steps.

1.4 The consultation is part of a wide-ranging programme of banking and wider financial sector reform that is underway across Europe and the G20. At the European level, the Recovery and Resolution Directive is intended to produce resolution regimes for investment firms and financial holding companies, as well as banks. The European Commission has also published a consultation paper on a possible recovery and resolution framework for financial institutions more widely.

1.5 In due course, the Government would therefore expect to see European legislation brought forward. However, the timing of any European legislation is uncertain at this stage. Even the Recovery and Resolution Directive, which is more advanced than other proposals, does not have a date that is certain for its adoption. The Government is therefore minded to develop the UK's domestic regime in advance of the European process. In doing that, the government will, of course, pay close attention to developments both in Europe and beyond, so that UK action both supports the strengthening of the Single Market and adequately reflects the cross-border nature of financial markets.

1.6 The consultation document was accompanied by indicative draft legislation designed to provide a resolution regime for:

- investment firms;
- parent undertakings of investment firms and deposit-taking institutions; and
- CCPs.

1.6.1 The Government is now moving to extend Banking Act powers in these areas by making suitable amendments to the Financial Services Bill. The Government received comments on the legislation during the course of the consultation and, consequently, has made some changes to it.

1.7 In summary, the main changes to the legislation in light of the consultation are as follows:

- Scope to narrow the definition of investment firms, through secondary legislation;
- An extension of the stabilisation powers to group companies to facilitate the resolution of a failing entity, but subject to conditions to be set by the Treasury in secondary legislation. Conditions will, for example, limit the powers to financial groups (rather than financial elements of any group that contains a bank, as was proposed in the consultation document), and will require groups to be identified by reference to the lowest level of holding company;
- An additional objective for intervention in a failing CCP, which seeks to maintain the continuity of critical services; and
- An exclusion of the initial proposal to make the members of a CCP liable for any losses that go above and beyond the provisions already in place (i.e. a cash call). However, as part of the work around the consultation, the authorities are considering making these loss allocation rules part of the operational requirements that a CCP must have, in order to operate as a clearing house in the UK. The Government will re-consult on this new proposal in due course.

1.7.1 Further details are explained in the rest of this document.

1.8 For non-CCP FMIs and insurers, the case for a full resolution regime is less clear cut. Other approaches may be more appropriate. A payment system, a securities settlement system where there are no obvious substitutes, or an insurer who engages in wider financial market activities, clearly all have the potential to be systemically important. But, in some cases, extending and/or strengthening existing administration or run-off arrangements may be sufficient rather than a full resolution regime.

1.9 These areas require further consideration. The Government is therefore proposing to consider the responses to the consultation further before deciding a way forward. This may involve further consultation on more specific proposals in due course.

2 Summary of responses

General considerations

2.1 **Do you agree that the four types of non-bank identified above – investment firms and parent undertakings, CCPs, non-CCP FMIs and insurers – are those that are most likely to have the potential to be systemically important?** Broadly, stakeholders agreed that these all had the potential to be systemically important.

2.2 **What other types of non-bank – if any – might have the potential to be systemically important? If there are any others that may be systemically important what policies should the Government adopt to mitigate the risk they pose to financial stability?** Most stakeholders thought that the categories were sufficiently broad as to capture all the areas that have the potential to be systemically important.

Investment firms and parent undertakings

2.3 **What are your views on the UK introducing resolution powers for these firms in advance of conclusions on the RRD negotiation?** Many stakeholders were concerned about domestic legislation being introduced in advance of European legislation. The Government sought to reassure industry that the UK regime is intended to be fully consistent with European proposals, and explained that it was taking an active part in the development of the European proposals (e.g. through the work of CPSS-IOSCO and the European Commission). Ultimately, when European legislation is in place, the UK's domestic legislation will need to be brought in line if it is not already. As a result, stakeholders understood the rationale for the UK wanting to act more swiftly than the European process allowed, and for creating certainty in doing so.

2.4 **Is the definition of investment firm used in Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions, the correct one for the application of a resolution regime?** Most stakeholders felt that this broad definition would impose an unnecessary burden on small investment firms that would be captured under this definition, but are unlikely to ever prove systemic. The Government accepts this point and the legislation that is now being brought forward includes a power to exclude classes and descriptions of investment firm. The intention is to use this power to exclude small investment firms, for example by using the same definition as in the Recovery and Resolution Directive, which excludes all investment firms that are not subject to an initial capital requirement of €730,000 as specified in the Capital Requirements Directive. Narrowing the scope in this way will bring the UK definition in line with that used in Europe. Using secondary legislation to do so will mean that the definition can be amended at a later date if that should be necessary.

2.5 **Are the conditions by which the Bank is required to judge the necessity of exercising stabilisation powers correct?** The broad consensus was that these conditions are correct, and are consistent with those used in the Banking Act.

2.6 **Should any further safeguards be applied to qualify the use of powers within a financial or mixed holding company?** Stakeholders generally understood the rationale for taking powers to intervene at a holding company level but were interested in how this would work in practice. There was a particular concern for those companies who have other non-bank business, or

whose main line of business is non-financial (e.g. a retailer who also engages in financial activities). The legislation sets out the safeguard that, in exercising a power in respect of a group company, the Bank must have regard to the need to minimise the effect of the exercise of its powers on the rest of the group. The legislation also contains a power that the Government intends to exercise that will require the Bank to exercise powers over group companies only within the lowest level of the group (see 2.7 below).

2.7 **What should be considered the financial elements of a holding company? Should the authorities define 'financial elements' on the face of the legislation or in the accompanying code of practice?** The consultation confirmed the difficulties in attempting to define financial elements within groups. Although the legislation that the Government is now bringing forward confers powers on the Bank to exercise powers in respect of group companies, it also confers on the Treasury a power to specify conditions that must be satisfied. The Government intends to use this power to limit the exercise of the power to financial groups, being a group where the business of the holding company, or its subsidiaries, is primarily in financial services. The Government also intends to use this power to require the Bank to exercise powers over group companies only within the lowest level of group.

2.8 **Is the existing public interest test sufficient for defining the level of the authorities' possible intervention in a holding company?** Stakeholders thought the existing public interest test was acceptable.

2.9 **Do you agree with the trigger condition for enabling the exercise of stabilisation powers?** Broadly, the consensus was that the trigger for enabling the exercise of stabilisation powers was acceptable.

2.10 **Do you agree with the suite of stabilisation powers proposed for systemic investment firms and parent undertakings?** Largely, the stabilisation powers proposed were considered to be sufficient.

2.11 **Do you agree with the Government's intention not to include a power to transfer assets to an asset management vehicle in the suite of stabilisation powers?** Stakeholders agreed that it made sense to wait for the European process to deliver such a power through the Recovery and Resolution Directive (RRD), given that the power to transfer assets is reliant on the use of other RRD tools.

2.12 **Are any further safeguards necessary for the resolution of systemic investment firms and parent undertakings?** There was a general consensus that the safeguards proposed, combined with those discussed above in relation to mixed-holding companies were sufficient.

2.13 **Are there any additional areas a code of practice should cover that are particularly relevant to systemic investment firms or parent undertakings?** Stakeholders could not think of any further areas.

2.14 **Should the existing Banking Liaison Panel be extended in its current form, to advise on the effect of the intended regime for investment firms?** Most stakeholders felt that an extension of the Panel's current role was appropriate given current Panel members have an interest in resolution regimes for both investment firms and CCPs. The Government noted this point, and has, therefore, suggested an extension of the Panel's role and current membership. The Government will leave the Panel to decide whether it wants to continue as one group (e.g. with a rolling agenda) or whether it wants to create a sub-group for investment firms and/or CCPs which reports back to the Panel.

Central counterparties

2.15 **Do you agree with the scope of the intended resolution regime extending to all Recognised Clearing Houses incorporated in the UK which offer central counterparty clearing services?** Stakeholders noted that those recognised clearing houses that do not provide central counterparty clearing services should be excluded from the regime. The Government agrees with

this. Clearing houses that do not provide central counterparty clearing services are likely to be covered by proposals relating to non-CCP FMIs (see below).

2.16 **Are there any further options available to CCPs, their members and markets to reduce the likelihood of a CCP failing?** The industry already has a number of defences in place: members of a CCP are required to post significant levels of collateral against the value of their (and their clients') positions and this is pegged to the changing risk of the trade and the markets; CCPs also typically maintain default funds, which are contributed to by their members, and act as a contingency against extraordinary losses. CCPs then also have their own capital reserves. A number of firms talked about further mechanisms that are being put into the rule books of UK Recognised Clearing Houses, to protect against extreme market conditions, through 'loss allocation' rules. The Government believes that this is an important development and wishes to see it followed across the industry.

2.17 **Do you agree that measures that support substitutability of clearing services (e.g. through non-discriminatory access provisions and access to licences on a reasonable commercial basis) are an important underpinning to an effective regulatory and resolution regime?** The general consensus was that they were.

2.18 **Are there any areas where you consider that CCPs should become more transparent about their risk management practises and resolution planning?** Some stakeholders noted that greater disclosure from CCPs regarding their risk modelling and margin practices would help clearing members and clients to understand better their own exposures to the CCP. But it was also noted that there is already improved transparency underway due to other international regulatory initiatives.

2.19 **Do you agree with the use of the failure, or likely failure, to meet its conditions for recognition as the general trigger for possible intervention in a clearing house?** The general consensus was to agree.

2.20 **Do you agree with the specific conditions which must be satisfied before a stabilisation power may be exercised?** Again, industry thought these seemed appropriate.

2.21 **Do you agree that the authorities should be able to intervene ahead of action taken by the clearing house to restore its financial position, but only in order to prevent disruption to, or termination of, critical clearing services consistent with the financial stability objective?** The responses from industry were mixed. Many stakeholders said that they understood the rationale for taking an early ability to intervene. But some stakeholders felt that this could create unhelpful uncertainty about when the authorities would step in and the actions they would take. The Government's view is that the closure of a business line for critical clearing services, in particular where there are no obvious substitutes, could have systemic consequences and the risks of this outweigh any downside associated with increased uncertainty. The Government, therefore, intends to give the authorities the ability to intervene ahead of action taken by the clearing house, but only when necessary to preserve financial stability.

2.22 **Do you agree with the intended objectives of a resolution regime for clearing houses?** Most stakeholders thought that the objectives for intervention were appropriate.

2.23 **Do you agree with the proposed suite of stabilisation powers for clearing houses and do you think there are any additional stabilisation powers necessary to be able to resolve a clearing house in all scenarios for failure?** Stakeholders were content with the proposed suite of powers. However, one stakeholder had concerns about how the power to make partial transfers to a bridge institution would work, given that with clearing houses there is no easy split into 'good' and 'bad' parts. There were also questions raised about the ability to sell off a failed or failing clearing house, and whether there would be an industry provider who had the potential to absorb the losses. Furthermore, a more general point made was that if the failure of a clearing

house were the result of a number of members defaulting, it is unlikely that the problems would be contained within a single CCP, given members participate in multiple CCPs and non-CCP FMIs at any one time.

2.24 **Do you agree that the resolution authority should be able to impose losses on members of a failing clearing house as part of resolution action? Should this be applicable to losses arising from any circumstance?** There was strong industry opposition to this, on the basis that it would cause major uncertainty and could potentially lead to distorted incentives such as the early termination and exit of members. Industry also noted that it might put UK CCPs at a competitive disadvantage internationally. Also there may be capital and liquidity implications for clearing members.

2.25 The Government is aware that a power to impose liabilities on members of a failing clearing house would be novel and, in the light of the objections raised by industry, is not minded to pursue this proposal. However, the Government remains of the view that taxpayers should not be expected to meet the cost of restoring a failed clearing house to viability. The Government therefore wishes to build on the positive developments around loss allocation rules that are already taking place in the industry. This would see changes made to the Recognition Requirements for Recognised Clearing Houses in the UK that provide CCP services to make such loss allocation rules mandatory. Every CCP that operates in the UK would therefore be required to have in place a set of loss allocation rules, in order to be recognised. The authorities will consult industry further on these changes in due course.

2.26 **Should any such liabilities be capped and, if so, how should such a cap be structured and its level determined?** See paragraph 2.24 above. The Government is not minded to pursue this proposal.

2.27 **Do you agree with the proposed safeguards? If not, what additional safeguards should the authorities consider in exercising the stabilisation powers in relation to a clearing house?** Generally, stakeholders agreed with the proposed safeguards.

2.28 **Are there any specific areas that the code of practice should cover that are particularly relevant to CCPs?** No specific examples were provided.

2.29 **Do you agree with the proposed power of direction over insolvency practitioners? Do you agree with the circumstances in which this power is intended to be exercisable? What safeguards do you consider should apply?** Most stakeholders thought that a power of direction over an insolvency practitioner was appropriate in that it allowed due regard to be given to existing liabilities, thereby allowing the business to be wound down in a more stable manner. However, there was also some confusion about how and when this would apply. The power of direction over an insolvency practitioner is intended to provide the resolution authority with the ability to direct the administrator/ insolvency practitioner. An example of when this might be necessary might be where, an insolvency practitioner has been appointed but no resolution tool has been used, however, it is necessary for certain systems (such as IT) to stay in operation to enable the closing out of positions. Should they not be able to stay in operation, their closure could threaten financial stability.

2.30 In the absence of a fully fledged special insolvency process for failed CCPs under which insolvency practitioners could be made subject to special obligations (similar to the SAR for investment banks and the bank insolvency procedure), such a power is therefore necessary to provide the resolution authority with the ability to direct the administrator of a failed CCP (subject to certain conditions) to take action to address risks to financial stability. Furthermore, the power of direction will operate subject to the law of insolvency, and will not depart from the normal order of priority for creditors.

2.31 **Should the existing Banking Liaison Panel – established under the Banking Act 2009 – be extended, in its current form, to advise on the effect of the intended regime on CCPs?** Please refer to 2.14.

Non-CCP financial market infrastructure

2.32 **Do you agree that the regulatory framework for dealing with the failure of at least some non-CCP FMIs need to be enhanced?** Broadly stakeholders thought that a full resolution regime, of the type in place for banks, was not necessary for non-CCP FMIs. This was because most non-CCP FMIs have no financial exposure, similar to those faced by CCPs, and any failure is more likely to be operational or technological. Furthermore, running costs are historically low which means any costs associated with the failure of a non-CCP FMI are likely to be relatively low. Stakeholders noted that these costs could be easily absorbed by the owners and members of these FMIs (which are primarily the main UK banks and building societies). Industry also felt that the reputational risk of a significant disruption to, for example a payment system, was too great for the members and owners to allow. However, at least one stakeholder thought that more could be done to tighten the regulatory oversight and recovery planning of some of the key infrastructure and service providers.

2.33 **If so, what should be the criteria for determining whether a non-CCP FMI should be covered? Should companies providing critical services to FMIs be included?** See 2.32 above.

2.34 **Is it sufficient to strengthen the existing insolvency framework, or should a new resolution regime be developed? Should the same approach apply to all non-CCP FMIs? Should some non-CCP FMIs be prioritised over others?** Stakeholders thought that strengthening the existing regime was more appropriate than a full resolution regime, although there were few suggestions about what could be done. Generally stakeholders felt that whatever was done should be consistent across all firms. At least one stakeholder thought that there was a case for prioritising some types of institution over others.

2.35 With this in mind, the Government wants to take time to consider more fully the responses that it has received from industry, and engage in further dialogue with industry and the authorities about how best to amend the current regime to ensure that any disruption that could result from a failing non-CCP FMI is minimal.

2.36 **How should improvements to the insolvency framework, or development of a resolution regime, be designed? In particular, what objectives, triggers for intervention, powers and safeguards should be put in place?** There were concerns about how many of these tools would work in practise, given the nature and set-up of some of these entities. At least one institution thought that 'step-in rights' might be useful, but overall most thought that the other tools available to the authorities in the case of deposit taking institutions would not be effective.

2.37 **What are the competition implications of taking forward the sorts of approaches discussed in this chapter? How could the reforms contemplated here be designed so that they promote competition?** At least one stakeholder had concerns that the introduction of prescriptive measures could affect competition. Little evidence was provided on how these reforms could promote competition.

Insurers

2.38 **Do you consider that some insurance institutions have a degree of systemic potential?** There was broad consensus that systemic potential should be assessed according to the particular business activities being undertaken, rather than by size of institution.

2.39 Stakeholders highlighted the importance of distinguishing the insurance business model from that of banking when making such an assessment, stressing that insurers are not

interconnected in the way that banks are and have different risk characteristics in terms of liquidity and leverage. In particular, there was agreement that core insurance business is unlikely to pose a systemic risk to other insurers or financial institutions, since insurers do not rely on short term capital markets for funding and are not prone to the risk of a run.

2.40 Most stakeholders agreed that traditional insurance activities – whether general or life insurance business – do not generate or amplify systemic risk, but that those insurers engaging in non-traditional and non-insurance activities (such as derivative trading) could potentially create systemic risks.

2.41 However, some stakeholders considered that in certain circumstances insurers could give rise to systemic risks, for example, life insurers with long term guarantees with potential exposure to asset/liability mismatches; any insurer with large exposure to catastrophe risks, including through reinsurance or retrocessions; and the failure of an insurer with a large market share in a compulsory segment such as motor or employers liability.

2.42 Many stakeholders highlighted the ongoing work of the International Association of Insurance Supervisors (IAIS) on systemic risk and the importance of ensuring consistency of any domestic policy proposals with this work.

2.43 **Do you agree with the Government's overarching objectives that any insurer should be able to exit the market without disorderly impact, and that the interests of policyholders should be appropriately protected? If so, what is the most appropriate means of achieving these objectives?** There was broad agreement with the Government's two overarching objectives – namely enabling any insurer to exit the market without disorderly impact and achieving an appropriate degree of policyholder protection.

2.44 One stakeholder suggested that the term "disorderly impact" should be limited to situations where the failure of the institutions could: trigger the failure of a significant number of other financial institutions; disrupt vital elements of the financial system (e.g. payment systems); or significantly undermine public confidence in the financial system.

2.45 Most stakeholders said that they were not aware of shortcomings in the current regulatory framework or insolvency proceedings that would cause an exit to be disorderly and saw no value in adding a dedicated resolution regime for insurers to the existing range of tools. Some believed that where an insurer faces significant financial stresses and may ultimately fail, the current framework already allows time for action to be taken to address the situation, making it extremely unlikely that an insurance failure could not be managed in an orderly manner.

2.46 One stakeholder suggested that the most appropriate way of achieving the objective of policyholder protection is the supervision of insurers as a going concern. Another suggested that the most appropriate way to achieve this objective would be to implement the requirements of Solvency II.

2.47 **Do you consider that the insolvency framework for dealing with the failure of insurers needs to be enhanced? What form should improvements take to provide greater clarity and certainty around securing continuity of cover for policyholders?** Discussion of these questions drew a mixed response from stakeholders. Some felt that the current framework was adequate and cited the instances of run-off – in which a firm stops writing new business and existing liabilities mature or run-off over time – as evidence of this.

2.48 At least one stakeholder stressed that the administrator's obligation to continue to administer the insurer's long term contracts with a view to securing a transfer, should retain equal status with their other objectives. This stakeholder did suggest, however, that it might be useful to draw up guidance for administrators, outlining the factors that should be taken into consideration if facing such a decision.

2.49 Another stakeholder noted that asset disposals during stressed market conditions may not be in the best interests of policyholders: both those surrendering policies and those remaining in the risk pool. One option would be for supervisors to partially suspend the payment of surrenders in these circumstances as is the case in France and Japan.

2.50 A number of stakeholders highlighted the lack of a recent insurance insolvency, particularly in the life insurance sector, and suggested that this made it difficult to assess the suitability of the current insolvency framework. However, others stakeholders pointed out that the reason that the framework is not often tested was because pre-emptive measures were usually put in place at an earlier stage. Others demonstrated an appetite for change, particularly in terms of improving the operational effectiveness of the Financial Services Compensation Scheme (FSCS) to deliver continuity of cover for policyholders. However, one stakeholder felt that increasing the value of claims met by the FSCS in the event of an insurer's failure up to 100 per cent would introduce a moral hazard to the extent that customers might opt for the lowest premium offered, confident in the knowledge that their claims would be met in full by the FSCS. This, they felt, would make it more likely that some insurers would price close to the margins and ultimately fail.

2.51 One stakeholder considered that an objective of Solvency II should be to focus on the insolvency framework in order to provide greater clarity and certainty around securing continuity of cover for policyholders. Another stakeholder suggested that the Own Risk and Solvency Assessment (ORSA) of Solvency II could be expanded to include a living will to indicate how the company would be wound up with as little harm to the policyholders and the market as possible.

2.52 Another stakeholder suggested that the regulator should be given powers of intervention similar to those that exist for friendly societies. They also suggested that the regulator should be appointed as the administrator until all policyholders are discharged, and that the regulator should be given powers to negotiate settlements with other creditors.

2.53 A further stakeholder suggested that the Government should explore options for ensuring that a transfer need not go through the full FSMA Part VII procedure (including policyholder permission) before taking effect. This modification, they suggested, would reduce costs and improve efficiency by giving the directors or liquidators of an insurer a choice in how to protect the interest of creditors and policyholders.

2.54 One stakeholder suggested that situations where it is not possible to find another insurer willing to take on the book of business because the available resources were below Solvency II technical provisions should be addressed by a combination of FSCS injections into the fund to increase assets to the level of the technical provisions and reductions in benefits to reduce the technical provisions to the level of the assets.

2.55 Some stakeholders also outlined an interest in pre-insolvency tools which could be deployed during the recovery phase to protect policyholder interests by minimising the risk or impact of firm failure, although it was noted that the trigger and safeguards for such tools would need careful consideration (see 2.59 for views in respect of the portfolio transfer tool).

2.56 In the context of delivering continuity of cover, at least one stakeholder highlighted the importance of taking into account the particular specificities of life insurance business compared to general insurance business. Industry generally felt that the market had the capacity to absorb business from the failure of a large insurer, and that the need for significant change to the current framework was therefore mitigated. One stakeholder also noted that life insurance is not compulsory and therefore felt that a loss of capacity in the market would not impede other economic activity.

2.57 **Do you consider that the UK authorities should have resolution tools in the event that the failure of an insurance company raises public interest concerns because it is likely to have systemic implications?** Most stakeholders considered that a comprehensive resolution regime,

similar to that in place for deposit-taking institutions, would not be appropriate for insurers, arguing that the failure of an insurance company was unlikely to have systemic implications and that current regulation/legislation was already adequate.

2.58 Some stakeholders discussed the merits of individual resolution tools and suggested that the Government would need to give the trigger and objectives for using such tools careful consideration, particularly in terms of their applicability to insurers. One stakeholder suggested that there should be an early discussion of what constitutes a systemic impact, stressing that such a discussion should not be left until the time of a failure when such assessments may be affected by the public mood.

2.59 **Do you consider that a portfolio transfer power should be introduced for use as a preventative supervisory tool?** Several stakeholders voiced support for the existing Part VII regime for insurance transfers, noting its effectiveness when used in practice as well as the depth of industry expertise in facilitating the process. While some acknowledged the utility of enabling the regulator to use the transfer power as a preventative supervisory tool (i.e. pre-insolvency), particularly in terms of ensuring continuity of provision, concern was expressed about setting an appropriate trigger for the power and the process for finding a willing buyer.

2.60 One stakeholder was concerned that such a power might be used too early, particularly when some realistic possibility of recovery still remained. Another, meanwhile, considered that the use of portfolio transfer as a preventative measure would only be appropriate where there was no realistic prospect of recovery and where the Minimum Capital Requirement under Solvency II had been breached.

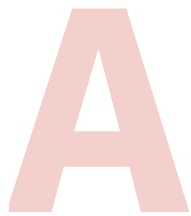
2.61 One stakeholder considered that transferees would take on that business only at a fair market price whereas, regulatory intervention may require transfer of business at another price, or before a fair valuation had taken place. More than one stakeholder suggested that the transfer may only be effective if a contribution is made by the FSCS towards the difference in price. More than one stakeholder also stressed that the regulator should not have the power to force other firms to accept the transfer, warning that such a power could seriously reduce the attractiveness of the UK insurance market. Another stakeholder felt that a transfer imposed by the regulator could have the effect of devaluing the portfolio and affecting confidence.

3 Next steps

3.1 The authorities are grateful for the views expressed by industry and will continue to engage with stakeholders and industry representatives as they implement the proposals set out in the consultation document.

3.2 On investment firms, the parent undertakings of investment firms and deposit taking institutions, and CCPs, changes have been made to the earlier draft clauses in light of the responses to this consultation. The Government now wishes to see these powers on the statute books as soon as possible. It is therefore making appropriate amendments to the Financial Services Bill that is currently being considered by the Houses of Parliament.

3.3 For non-CCP FMIs and insurers, the authorities have listened carefully to the arguments presented by stakeholders and will consider how best to move forward and implement the changes if appropriate. Continued dialogue between the authorities and industry participants throughout this, will be crucial to ensuring that any changes address their intended objectives. The Government will also continue to pay close attention to developments in Europe and to other international work when considering the merits of UK action in these areas.



List of respondents

ACE European Group Limited.
Association for Financial Markets in Europe (AFME)
Association of British Insurers (ABI)
Association of Financial Mutual's (AFM)
Aviva
BACS Payment Schemes Limited.
Baillie Gifford & Co
Barclays
BATS Chi-X Europe
BBVA
Blackrock
British Bankers' Association (BBA)
CHAPS Co
City of London Law Society
CLS Bank
Euroclear UK & Ireland
Financial Services Consumer Panel (FSCP)
Futures and Options Association (FOA)
ICAP
ICE Clear Europe
Insight Investment
Institute and Faculty of Actuaries
International Capital Market Association (ICMA)
International Regulatory Strategy Group (IRSG)
International Swaps & Derivatives Association (ISDA)
Investment Management Association (IMA)
KPMG
LCH Clearnet
Legal & General Group Plc
Link Scheme
Lloyd's
London Stock Exchange Group (LSEG)
Nomura
Royal & Sun Alliance Response
SIX x-clear Ltd
Tesco Bank
The Alternative Investment Management Association Limited (AIMA)
The Co-operative Banking Group
The Faster Payments Scheme Limited
The Geneva Association
The Global Financial Markets Association (GFMA)

The Payments Council
UBS AG
Vocalink

Independent respondent

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