



# HM Treasury

## **Financial Services (Banking Reform) Bill**

### **Clauses 10, 11 and 12: Financial Services Compensation Scheme (FSCS)**

**Briefing for Peers**

**October 2013**

The Banking Reform Bill reforms the governance arrangements of the Financial Services Compensation Scheme (FSCS) by imposing new statutory duties on the scheme manager (FSCS Ltd). FSCS Ltd will be required to:

- have regard to the need to:
  - operate the FSCS swiftly and efficiently for the benefit of claimants;
  - minimise taxpayer funding costs; and
- provide the Treasury with information for Government accounting purposes.

The Bill also makes provision for FSCS Ltd to have a Chief Executive Officer (CEO) who will be the Accounting Officer for Government Accounting purposes.

The FSCS is an industry-wide insurance scheme covering eligible deposits, insurance, and investments, up to set limits, and FSCS Ltd. (the scheme manager) was set up as a corporate body to manage the scheme. In total, the FSCS insures £920bn of deposits, equivalent to approximately 65% of UK GDP. This scale of liability is beyond the ability of a wholly industry-based scheme to self-insure. During the financial crisis the scale of compensation necessary was beyond the scope of such a scheme to fund and in 2008 the Treasury had to make £20.4bn of loans available to the FSCS to fund the payouts in respect of Bradford and Bingley (B&B), London Scottish Bank and the Icelandic Banks.

The FSCS have agreed a protocol with the Treasury to borrow from the National Loans Fund to fund compensation costs that the industry cannot absorb immediately. In future, the failure of even a moderate sized deposit taker (with deposits over £1bn) could entail a substantial call on public funds, and it is therefore important that the scheme manager has regard to the interests of taxpayers when discharging its duties.

Clause 10 of the Bill will ensure that the scheme manager of the FSCS has regard to the need for efficiency and effectiveness in the way in which it discharges its functions and also has regard to the need to minimise the cost to the taxpayer in relation to loans or other financial assistance it receives.

Furthermore, the Office of National Statistics (ONS) has reclassified the FSCS as a central government body for public accounts purposes. As a consequence, the accounts of the FSCS now have to be consolidated within HM Treasury Group Accounts. The Principal Accounting Officer (the HM Treasury Permanent Secretary) is required to provide an assurance on the regularity and propriety of expenditure of the Treasury Group account, including

transactions consolidated from the FSCS accounts. The current FSCS governance framework does not give the Treasury direct control over, or scrutiny of, the activities of the FSCS – or access to its accounts and other management information – to certify for audit purposes that their activities are to the standard required under 'Managing Public Money' as regards the duty to use public money responsibly, governance, decision-making and financial management. For more detail on managing public money please see <https://www.gov.uk/government/publications/managing-public-money>.

Clause 11 therefore provides a power for the Treasury to request the necessary information from the scheme manager for the purposes of Government accounting. And clause 12 requires the scheme manager to have a Chief Executive Officer who is to be its Accounting Officer; the CEO will be appointed by the FCA and the PRA. Nothing in either of these clauses gives the Treasury, or indeed any other part of Government, the ability to interfere in the day-to-day running of the FSCS or the scheme manager.

**Clause 10** - imposes duties on the scheme manager of the Financial Services Compensation Scheme as to the way in which the manager must discharge its functions. The scheme manager (FSCS Ltd) will be required to operate the FSCS with regard to the need for efficiency and effectiveness, and the need to minimise public expenditure.

**Clause 11** - gives the Treasury power by written notice to require the FSCS to provide information needed by the Treasury in connection with its duties under the Government Resources and Accounts Act 2000 (such as its duty to prepare consolidated accounts for the public sector, and to consolidate information relating to the FSCS in its departmental accounts).

**Clause 12** - amends FSMA so that the constitution of the scheme manager of the FSCS must provide for it to have a chief executive. The chief executive is also to be the accounting officer.

Further information on the FSCS can be found at: <http://www.fscs.org.uk/industry/about-the-fscs/further-details-on-the-fscs/>

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## Further Enquiries

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2. For access to publications please go to <http://www.gov.uk/government/policies/creating-stronger-and-safer-banks>