



Minutes

Meeting date: 7 May 2013
Meeting time: 10.00 am
Location: HM Treasury, 1 Horse Guards Road, London – Room G/16

Government members present: *HM Treasury* David Lunn (Chair); Jayne Breckon; Jamie Barber; Paul Clark; Ian Kemsley; Leo Hodes (TLA); Daniel Lee (TLA)

Bank of England Miles Bake; Lucy Chennells

Prudential Regulation Authority Stephen Drayson

Financial Services Compensation Scheme Alex Kuczynski

Insolvency Service Lee Hewlett

Industry members present: *Association of British Insurers* Galina Dimitrova

Association of Business Recovery Professionals Richard Heis

British Bankers Association Adam Cull

City of London Law Society Dorothy Livingston

Financial Markets Law Committee Sherine El-Sayed

International Swaps and Derivatives Association Peter Werner

Investment Management Association Guy Sears

Secretariat: James Fraser; Zakia Ahmad (HM Treasury)

Apologies: Rebecca Lane (TLA); Lauren Anderson (BoE); Peter Brierley (BoE); Paul Mayo (Insolvency Service); Nick Howard (Insolvency Service); Robert Hingley (ABI); Mike Woollard (ABRP); Roger Brown (BBA); Rob Beattie (BBA); Jeremy Palmer (BSA); Joanna Perkins (FMLC); Kate Sumpter (ISDA).

Agenda Item 1: Minutes of meeting on 5 February 2013

- 1.1 Panel members agreed the draft minutes.

Agenda Item 2: Review of the SAR for Investment Firms

- 2.1 Peter Bloxham introduced his report on the first phase of the review of the Special Administration Regime for Investment Firms, which was published on 23 April 2013. He emphasised that it was a review of how well the SAR was meeting the objectives set out in Banking Act 2009, rather than a review of those objectives. He was working closely in parallel with the FSA/FCA review of the CASS regime for client assets. He noted that the UK now has a range of several different insolvency regimes, of which this was one, and it was not always immediately obvious which one would apply in any individual insolvency event.
- 2.2 Panel members agreed with the view that a SAR was still needed to fill a gap in the insolvency regime, and expressed concerns about introducing depositor preference rules if the client assets regime was sufficiently robust. Firms' record keeping standards were often a problem, with a lack of clarity between client assets and client deposits. The Panel noted that any change to depositor preference would require changes to primary legislation (Banking Act 2009) and other insolvency law.
- 2.3 Peter Bloxham highlighted issues around the Bar Date rules, often leading to the need for a double reconciliation of records. Greater information sharing could be a solution, but market infrastructure providers had expressed concerns about the costs involved.
- 2.4 Panel members suggested seeking clarity about clients' rights to interest and income during the SAR process.

Agenda Item 3: Consultation on a SAR for Payment & Settlement Systems

- 3.1 Paul Clark introduced the Consultation Document which had been published on 25 April 2013, proposing a Special Administration Regime for Payment and Settlement Systems.
- 3.2 Panel members were generally in agreement with the approach proposed. Issues would arise where a key contractor for one of these systems was located in another jurisdiction, such as elsewhere in the EU, the Far East, or USA. There would also be issues where an entity which entered administration operated a payment system, and could be subject to multiple insolvency regimes at the same time.

Agenda Item 4: Progress updates

4A Non-bank resolution regime – secondary legislation

- 4.1 Jayne Breckon reported progress on developing Statutory Instruments for the non-bank resolution regime, as discussed at the February 2013 meeting of the Panel. Consideration of technical points had delayed drafting, and it was now planned to lay the SIs later in the year. She currently expected to be able to bring more detailed consultation to the Panel's July meeting.

4B Sub-group on Small Companies and the Safeguards Order

- 4.1 Dorothy Livingston reported that this had not moved forward substantively since the last meeting, but that the operation of the Order it was not currently causing any practical issues. The net reporting requirement looked likely to be altered by other proposals currently being considered, so further work by the sub-group would not be progressed until that position was clearer.

Agenda Item 5: BLP Terms of Reference and draft Annual Report

- 5.1 The Panel agreed the revised Terms of Reference which had been circulated. These have been updated to reflect changes to the Panel's remit agreed at the February meeting, and a proposal to move membership of industry bodies to a corporate, rather than named individual, basis.
- 5.2 The Panel were asked to provide any comments on the draft Annual Report 2012-13 by 31 May, to enable a final version to be published after the July meeting.
- 5.3 Meetings in 2014 will be set for dates in early March, early June, early September and early December.

Agenda Item 6: Any other business

- 6.1 Dorothy Livingston asked for clarity on the process for providing comments on the draft Secondary Legislation being prepared for implementation of the Financial Services (Banking Reform) Bill. The Secretariat agreed to circulate advice after the meeting.

Next Meetings:	30 July 2013 at 10.00 am
	5 November 2013
	March 2014
	June 2014
	September 2014
	December 2014