

Minutes of the Banking Liaison Panel 17 July 2012

Attendees and Apologies

1. David Lunn (HM Treasury) chaired the meeting. Others attending were Paul Brione, Elisabeth Noble, Mike Glycopantis, Veda Poon, Catherine McCloskey and Rob Elliot (HM Treasury), as well as Michael McKersie (Association of British Insurers), Rob Beattie (British Bankers' Association), Karen Gibbons (Financial Services Compensation Scheme), Dorothy Livingston (City of London Law Society), Jeremy Palmer (Building Societies Association), Natalia Anderson and Richard Heis (Association of Business Recovery Professionals), Peter Brierley and Lauren Anderson (Bank of England), Paul Mayo (Insolvency Service), Stephen Drayson (Financial Services Authority), Michael Percival (Association of Financial Markets in Europe), Joanna Perkins and Katharina Hoefs (Financial Markets Law Committee), Guy Sears (Investment Management Association) and Peter Werner (International Swaps and Derivatives Association).
2. Apologies were received from Peter Beales (Association of Financial Markets in Europe) and James Darbyshire and Alex Kuczynski (Financial Services Compensation Scheme).

Minutes from the previous meeting

3. The minutes of the last BLP meeting held on 25 April 2011 as well as the Banking Liaison Panel Annual Report 2011-2012 were approved with some minor amendments.

Banking Union

4. HM Treasury gave the Panel an overview of its current policy position in relation to a Banking Union. In summary, HM Treasury supports the proposal of a Euro-area banking union with a mutualised deposit insurance scheme, a common fiscal backstop for crisis management, and a Eurozone level prudential supervisory authority. HM Treasury sees its contribution to the process as important where it has experience and expertise but the UK will not form part of a Eurozone Banking Union.
5. The Panel invited members' views on the issue. A formal proposal for the structure and detailed elements of a Eurozone Banking Union has yet to be put forward. Particular issues raised to the Panel included questions around the scope of a banking union as well as questions around the regulatory authority that would be responsible for the Eurozone area. The main concern raised was the need to protect the unity and integrity of the single market while implementing a Eurozone Banking Union.
6. HM Treasury endeavoured to inform the Panel of Banking Union proposals as they develop, and to seek further consultation with Panel members for their views.

European Commission Bank Recovery and Resolution Directive

7. HM Treasury presented an overview of the Bank Recovery and Resolution Directive legislative proposal by the European Commission and then invited views from Panel members. The Panel noted that there is a large overlap of issues between the RRD proposal and Banking Union issues.
8. HM Treasury emphasised that the RRD proposal was just about to go into negotiations in Council, and that Member States are still forming their views. The UK authorities are

Banking Liaison Panel
Minutes of Meeting 17 July 2012

actively engaging with European counterparts to make improvements to policy and technical aspects of the legislative proposal, and raising practical workability issues where necessary.

9. Panel members engaged in a productive discussion around the bail-In proposals in the directive. In particular, the requirements for banks to hold minimum levels of bail-in-able debt, the exemptions of specific liabilities from bail-in, as well as the minimum thresholds required for the resolution authorities to be able to use a bail-in tool were discussed. The Panel did note that the current drafting of the proposed RRD required improvement to remove ambiguity around some of the proposals.
10. Articles 65 – 73 of the RRD proposal, which cover the safeguards provided to shareholders and creditors in the event of a resolution, were considered. The main focus centred on the differences between the safeguards provided by the RRD, and the safeguards currently provided for under the UK's own Special Resolution Regime. It was clarified that while the RRD would be enacted by each Member State, each state would have their own Code of Practice for the directive.
11. On the issue of suspending termination rights, covered in Article 63 of the RRD, the current drafting of the directive makes it unclear as to the scope and objective of the tool. In particular the suspension of payments and settlements raised a number of questions due to the ambiguity of the text. The Panel agreed that the drafting requires improvement to remove such ambiguities.
12. The asset separation tool, covered in Article 36 of the RRD, was discussed by the Panel in relation to its purpose and viability, as it currently isn't a tool the UK has under the Special Resolution Regime. The Panel opined that the tools could be useful to stabilise specific markets, and that the addition of optional resolution tools are welcome, whether used or not.
13. Articles 97-99, which set out proposals to mutualise resolution financing arrangements between Member States in a group resolution, and to oblige lending and borrowing between these arrangements, were raised as concerns by Panel members. It was considered that these articles would not be in the interest of the UK.

Any Other Business

14. The Panel's Sub-Working Group is progressing on developing a response to the 'Small Companies and the Safeguards Order' and proposed to discuss this at a future meeting.
15. HM Treasury sought the Panel's views on discussing the Special Administration Regime at future meetings, once firm proposals are made. It was agreed that HM Treasury will update the Panel as necessary.
16. HM Treasury also sought the Panel's views on potentially discussing a consultation document which is currently being drafted, addressing the issue on non-bank resolution powers. HM Treasury will consult the Panel further on this matter.