



# HM Treasury

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

### **Clause 13: Fees to meet Treasury expenditure**

Briefing for Peers

October 2013

#### **Fees to meet Treasury Expenditure relating to funding International Organisations**

HM Treasury, the Bank of England, the Prudential Regulatory Authority and the Financial Conduct Authority currently represent the UK in a number of international fora and standard setting bodies. These play an important role in promoting financial stability including promoting best practice, strengthening the international regulatory architecture and cooperating in cross-border supervision.

Since the global financial crisis, international financial stability bodies have grown in importance as they seek to promote financial stability. It is vital that the UK continues to be well represented in this work in order to support financial stability and to represent the interests of the UK.

The most important bodies are responsible for the design of the international regulatory regime and for managing contingency planning for cross-border crisis management, particularly with respect to systemically important firms. Key among these is the Financial Stability Board (FSB). The FSB coordinates the work of national financial sector authorities, such as central banks and prudential regulators, and international standards setting bodies, such as the Basel Committee on Banking Standards (BCBS), at the international level. Its mandate includes assessing vulnerabilities affecting the financial system, and advising on and monitoring best practice in meeting agreed international regulatory standards. It also collaborates on the joint FSB-IMF Early Warning Exercise, which monitors future risks to financial stability at global level.

The FSB was established in April 2009, as the successor to the Financial Stability Forum (FSF), following a call in 2008 from Leaders of the G20 countries for a larger membership of the FSF. A broad consensus emerged in the following months towards placing the FSF on stronger institutional footing with an expanded membership - to strengthen its effectiveness as a mechanism for national authorities, standard setting bodies and international financial institutions to address vulnerabilities and to develop and implement strong regulatory, supervisory and other policies in the interest of financial stability.

The FSB members include all the G20 countries; key international organisations such as the International Monetary Fund (IMF) and the World Bank; and International standard-setting bodies like the BCBS. The FSB is chaired by Mark Carney, Governor of the Bank of England. Its Secretariat is located in Basel, Switzerland, and hosted by the Bank for International Settlements.

The Government is introducing an amendment to the Financial Services and Markets Act 2000 as part of the Banking Reform Bill to enable HM Treasury to recover costs and expenses it may incur with regard to membership in international organisations related to financial stability and financial services in the future.

At the outset, the Government believes that only the FSB should be named as an organisation from whose membership costs HM Treasury can recover from UK financial services firms.

Currently, the FSB does not levy a membership fee on its members as it is funded by the Bank for International Settlements but in future it may introduce membership fees. These clauses therefore fill a possible future gap in the current system by enabling HM Treasury to require the regulators and the Bank of England to re-charge relevant expenses to industry so the taxpayer doesn't have to bear them.

## **The Clauses**

**Clause 13** – of the Banking Reform Bill will give HM Treasury the power to direct the relevant authority (the PRA, the FCA and the Bank of England) to charge the financial services industry a fee to cover HM Treasury expenses resulting from UK membership of international organisations related to financial stability. This would parallel the regulators' existing abilities to levy the industry for costs and expenses in connection with the international components of their own work programmes.

Clause 13 has been designed to be sufficiently flexible to adjust to any subsequent changes in the legal nature or successor to the FSB, as well as any changes in international institutions or fora that play a leading role in financial stability, services and regulation. This flexibility is necessary given the evolving nature of the international financial regulatory landscape.

At the time of introduction, clause 13 was also designed with a fairly broad scope in order to capture a range of expenses that HM Treasury could incur in relation to international engagement with institutions working on financial stability, including membership fees, but also – potentially – the costs of staff in HM Treasury working on financial stability issues, secondments to institutions with a financial stability mandate and attendance of meetings at such institutions. However, the Parliamentary Commission on Banking Standards in December 2012 expressed concern that the power could be too broad and, going beyond the intended purpose as described above, could allow for funding HM Treasury more generally. In response, the Government narrowed the power so that the only expenses which can be charged to the industry are contributions to the resources of the international organisation in question (which currently will only be the FSB) which the Treasury consider relate to the financial stability or financial services work of that organisation. It cannot be used to fund other expenses incurred by HM Treasury.

The structure of the power is set out on the face of the Bill, but much of the detail – such as the list of international organisations for which HM Treasury expenses may be claimed, and the types of expenses that can be recovered under the power – is set out in the draft Fees and Prescribed International Organisations Regulations which will be made under clause 13 of the Bill. HM Treasury published draft secondary legislation to be made under these provisions on 17 July 2013. It can be viewed here:

<https://www.gov.uk/government/consultations/banking-reform-draft-secondary-legislation>

**Clause 14** – sets out the parliamentary procedure that will apply to regulations made under new sections 142W and 410A of FSMA on funding for international organisations. It sets out that the affirmative resolution

procedure will be used for all regulations, except those that only specify the name of an international organisation that comes within the scope of new section 410A, which will be subject to the negative resolution procedure.

Applying the negative resolution procedure to regulations that only specify international organisations means that an organisation that needs to be specified only for technical reasons – for example a change of name or legal constitution – can be specified without necessitating a Parliamentary debate. HM Treasury Ministers will notify Parliament through a Written Ministerial Statement in the event that any new international organisations are prescribed.

The draft Regulations—

- prescribe the FSB as the only organisation whose expenses may be charged to industry,
- set out the Treasury's power to issue directions to regulators or to the Bank requiring them to impose fees to meet HM Treasury's relevant expenses,
- require the HM Treasury to consider whether the fees to be charged to the industry via the regulator are affordable.

In considering whether the fees are affordable, HM Treasury must take into account the views of the regulator and consider the affordability of the direction for the class of persons to whom it applies (or is likely to apply).

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## Further Enquiries

1. For further information, please contact the Bill Manager Tom Wipperman (020 7270 6180, [tom.wipperman@hmtreasury.gsi.gov.uk](mailto:tom.wipperman@hmtreasury.gsi.gov.uk)) or the Bill Team Leader Ian Ginsberg (020 7270 5967, [ian.ginsberg@hmtreasury.gsi.gov.uk](mailto:ian.ginsberg@hmtreasury.gsi.gov.uk))
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