

## Minutes of the Banking Liaison Panel 2 June 2010

### Apologies

1. Apologies were received from Nikhil Rathi (HMT, Chair), Peter Beales (AFME), Dorothy Livingston (CLLS), Ed Murray (ISDA) and Michael McKersie (ABI).
2. HMT alternate Emil Levendođlu chaired the meeting. Gilbey Strub attended the meeting on behalf of AFME.

### Minutes of the previous meeting

3. The minutes of the previous meeting of the BLP held on 9 March were **agreed**.

### Horizon scanning

4. It was **agreed** that the Treasury would get back to the Panel in due course with proposals for the Panel's programme of work going forward.

### Terms of reference

5. The Panel **agreed** the terms of reference, and that these would be published on the Treasury website.

### Code of Practice

6. The Panel **noted** that the advice has been circulated to Panel members for comments, in line with procedure outlined in the Terms of Reference.
7. The Panel **agreed** and formally gave the written advice on the Code to the Treasury. With regard to the publication, the Panel **noted** that for previous advice, the Treasury had published the Panel's advice at the same time as publishing Government's response, and that the Treasury would consider the most appropriate procedure for publication.
8. The Chair thanked the subgroup chair, noting that the advice was detailed and comprehensive, and that the Treasury would consider it carefully.

### Safeguards

9. The Panel noted that evidence gathering is still in progress.

## **Financial Collateral Arrangements Directive (FCAD)**

10. The Treasury policy lead on FCAD gave an update on issues around the directive. The Panel **noted** that the Treasury was currently considering issues concerned with or relating to implementation of the amending directive and had had preliminary discussions with a number of interested parties. The Treasury will be consulting on the amending regulations: it was **agreed** the BLP will be kept informed of arrangements for engaging with industry.

## **Commission consultation on crisis management**

11. The Panel **noted** progress made by the European Commission and its proposals for crisis management, including that there will be further communication in October and possible draft legislation in spring 2011.
12. The Panel noted that recovery and resolution plans are being discussed at the European level, and that if European level standard can be developed, this will aid cross-border resolutions. The Panel noted that one advantage of the UK's living wills pilot is that it gives the UK the opportunity to contribute strongly to the international debate on resolution going forward.
13. Industry members noted that the scope of the European proposals is still to be decided, but there appears to be a desire to cover investment banks and deposit taking banks, which is the approach that is being taken by the Financial Stability Board (FSB) and the G20. The Panel noted that there seems to be momentum at the international level for having one regime for both. The Panel noted that this is different to the UK's current approach. In the UK, deposit-taking banks are the subject of the SRR, whereas under the published proposals, non deposit-taking banks will potentially be subject to an enhanced administration regime and regulatory interventions – not resolution powers for the authorities.
14. The Panel noted that part of the reason for this is the prevalence of the universal banking model in Europe, and the fact that UK proposals for investment banks focus on issues arising specifically from the Lehman insolvency. The Panel discussed the limitations of having a national regime for deposit takers, with industry members noting that this may not be adequate to deal with the failure of a large cross-border firm. It was noted that the possibility of extending resolution powers to cover investment bank is not under consideration in the current proposals but had not been ruled out.

15. The Panel noted that a range of approaches was under discussion in Europe, including for a integrated regime, or the establishment of a common set of tools to be implemented by Member States. The Panel noted the technical difficulties with the integrated regime, including the differences in legal traditions, making it difficult to establish a single regime. It is likely that Member states will want to retain their national powers to ensure that they can act to protect financial stability. The Panel noted that the Commission agreed principles about the kinds of tools that are required, but had not yet got down to the detail about exactly how the regime will work.
16. The Panel noted the problems with defining an investment bank, the practical difficulties with having different regimes for retail and investment banks and the potential difficulties of separating out a deposit taker from other parts of a bank in a resolution. Some industry members suggested that it would be better to have a single system for universal banks.
17. The Panel noted that international proposals for resolution funds are linked to the scope of the tools and powers: if all types of banks are to be levied to fund a regime, it may be that they should all be potentially subject to the same regime. Industry members noted the European Commission's recent resolution funds Communication, and noted that much of the detail about how the proposed funds would operate is not yet clear, including how the funds would be managed; and also noted the risk of having multiple sources contributing to resolution costs if a resolution fund were to sit alongside FSCS funding of the SRR.

## Investment banks

18. The Panel **noted** progress on work on investment bank insolvency, and that Treasury is considering whether to take forward the proposals based on input from its Investment Banking Advisory Panel and the consultation responses to its December 2009 consultation paper. Any regulations made under the Banking Act need to be made by 21 February 2011.
19. The Panel discussed the potential interaction of the special administration regime for investment banks (SAR) with the bank insolvency procedure (BIP) and bank administration procedure (BAP) provisions in the Banking Act 2009, and **noted** that if appropriate, advice from the BLP may be sought to ensure that there is sufficient interoperability between the special administration regime and the Banking Act.
20. The Panel discussed the possibility of a hybrid SAR/SRR regime, and the interaction of the competing objectives for a bank administrator / bank liquidator in those circumstances; and whether there should remain for the authorities a power to direct the administrator to prioritise certain objectives, or whether this should be set out in legislation.

21. The Panel **noted** that the proposed SAR is analogous to the BIP, in that the administrator has an additional objective of returning client monies, comparable to the bank liquidator's objective in the BIP to work with the FSCS to compensate eligible depositors.

## **Annual report**

22. The Panel **agreed** the annual report, and that it will be sent to Ministers and published.

## **Any other business**

23. The Panel **noted** provision dates and times of meetings for the coming year:

Monday 06 September 2010, 14:00-16:00.

Tuesday 02 December 2010 15:00-17:00

Thursday 03 March 2011 14:00-16:00