HM Treasury

Financial Services (Banking Reform) Bill

Government Amendments: Pensions Provisions

Briefing for Peers **October 2013**

Pensions Policy Objective

The ICB recommended that ring-fenced banks should not have liabilities to group-wide pension schemes. The reason for this is that under existing pensions law, when more than one employer shares a pension scheme, if one employer in the pension scheme fails, the other employers can be called upon to support the scheme. Allowing ring fenced banks to have potential liabilities to group-wide pension schemes could result in a healthy ring-fenced bank being dragged down by sudden extra pension liabilities in the event of the failure of another group member.

Therefore, under ring-fencing, ring-fenced banks will be required to ensure as far as possible that they cannot become liable to meet or contribute to the pension liabilities of non-ring-fenced bodies.

Pensions Amendments

The provisions in the Bill are enabling, allowing the Treasury to make regulations requiring ring-fenced banks to take steps to achieve a separation of pension schemes.

The existing provisions allow the regulations to require the restructuring of pension schemes, if the ring-fenced bank is one employer in a group-wide multi-employer scheme. The Government believes it is likely that banking groups will have multi-employer schemes, however there are other arrangements and potential sources of liability that banks may have in place, or could put in place in the future.

The amendments will broaden the scope of the enabling power to enable regulations to cover schemes other than multi-employer schemes and to apply to non-statutory liabilities such as liabilities under contractual arrangements or guarantees, where those liabilities could result in a ring-fenced bank becoming liable for another body's pension liabilities.

Power to Modify Legislation

The long term nature of pension arrangements means that the full effect of legislative changes may not be appreciated until well into the future. The Government needs to have the ability to respond to an unpredictable and developing situation as banks restructure their pension arrangements. The amendments include a power for the Treasury to modify, exclude or apply primary or subordinate legalisation in the regulations. This power will allow the Government to ensure that the separation of pension schemes is effective and the robustness of the ring-fence is maintained.

Regulations

The provisions of the Bill are enabling, giving the Treasury the power to make regulations requiring separation of pension liabilities. This is appropriate because pensions regulation is a complicated area, where the issues are inherently long term in nature. Requiring separation through regulations, rather than in primary legislation, will give the Government the ability to adjust the regulations over time to take account of changing circumstances and ensure that pension schemes and their members are not unduly disadvantaged.

Further Enquiries

1. For further information, please contact the Bill Manager Tom Wipperman (020 7270 6180, tom.wipperman@hmtreasury.gsi.gov.uk) or the Bill Team Leader Ian Ginsberg (020 7270 5967, ian.ginsberg@hmtreasury.gsi.gov.uk)
2. For access to publications please go to http://www.gov.uk/government/policies/creating-stronger-and-safer-banks