



Minutes

Meeting date: 9 September 2014

Meeting time: 10.00 am

Location: HM Treasury, 1 Horse Guards Road, London – Room G/14

**Government
members present:**

HM Treasury David Lunn (Chair);
Catherine McCloskey;
Claire Taylor; Bethany Timmins

Bank of England Peter Brierley, George Johnston

Prudential Regulation Authority Stephen Drayson

*Financial Services
Compensation Scheme* Alex Kuczynski

Insolvency Service Rhiannon Lawson

Industry

members present: *Association of
Business Recovery Professionals*

Association of Richard Heis

*Association of Financial
Markets in Europe* Oliver Moullin

British Bankers Association Adam Cull

Building Societies Association Jeremy Palmer

City of London Law Society Dorothy Livingston

*European Association of
CCP Clearing Houses* Perrine Herrenschmidt

*Financial Markets
Law Committee* Jennifer Enwezor

*International Swaps and
Derivatives Association* Kate Sumpter

Investment Association Guy Sears

Secretariat: James Fraser (HM Treasury)

Agenda Item 1: Panel administration

- 1.1 Draft minutes of the meeting on 27 March 2014 had been circulated; Panel members were asked to provide any comments by email before the end of September.
- 1.2 An Annual Report summarising the Minutes for the 2013-14 year will be drafted once the March 2014 Minutes have been finalised, for agreement at the next meeting.

Agenda Item 2: Review of the Special Administration Regime (SAR) for Investment Firms

- 2.1 The Treasury outlined plans to issue a consultation on the implementation of the wide-ranging recommendation of Peter Bloxham's Review of the SAR. Feedback was sought at this meeting on three areas: future proofing; insolvency rules; and good record-keeping.
- 2.2 Panel members noted that revisions to the Code of Practice would be important in setting out how any changes to the SAR would work in practice, in particular in relation to property rights.
- 2.3 One panel member suggested that MF Global had not had a problem with record-keeping, but uncertainty around valuations had been more of an issue. It was also thought desirable to have more certainty about traders' position on unsettled trades with brokers at the point of failure.

Agenda Item 3: Transposition of the EU Bank Recovery & Resolution Directive (BRRD)

- 3.1 The Treasury had circulated a Consultation Document issued over the summer, closing on 28 September, with draft secondary legislation to transpose into UK law the provisions of BRRD due by 1 January 2015.
- 3.2 There would be additional legislation to follow, but the consultation focused on the key outstanding policy issues, and included partial drafts of the legislation covering the issues of most concern to the industry. This follows an earlier consultation in the year on secondary legislation to implement the bail-in powers introduced under the Financial Services (Banking Reform) Act 2013. Following the earlier consultation, the Government had changed its approach to safeguards, and to the inclusion of derivative contracts, as well as deciding to amend the BRRD legislation to reflect the BRRD, and to commence the bail-in powers as part of the transposition.
- 3.3 Panel members expressed concerns about a number of proposed measures in the draft legislation, including:
 - safeguards for corporate bank account deposits;
 - operating across international borders, and the implementation of Article 34(2) of BRRD;
 - the limitations of the exclusions from bail-in;
 - the approach to resolution of branches;
 - arbitration or dispute resolution on valuations, without recourse to the courts.

3.4 The Treasury invited Panel members to submit written responses on the detailed technical points, and offered bilateral meetings to discuss issues in more detail. Final drafts of the Orders would be laid in Parliament in November.

Agenda Item 4: Any other business

4.1 The European Commission was expected to issue an impact assessment on non-bank resolution in early 2015, and bring forward proposals in the summer.

4.2 The UK Code of Practice was being revised, and a draft would be shared with the Panel at its next meeting.