



Council for Financial Stability – Draft¹ Terms of Reference

The Council for Financial Stability

1. The Financial Services Bill establishes the Council for Financial Stability ('the Council'). It consists of the Chancellor of the Exchequer, the Chairman of the Financial Services Authority (FSA), and the Governor of the Bank of England. The Chancellor of the Exchequer is to be the chair of the Council. The Bill requires the Council to:

- keep under review matters affecting the stability of the United Kingdom (UK) financial system; and
- coordinate any action taken, or to be taken, by the Treasury, FSA and Bank of England ('the Authorities') for the purpose of protecting or enhancing the stability of that system.

2. Terms of Reference will be issued by the Treasury pursuant to clause 1(5) of the Bill under which the Treasury may prepare a statement containing further provision with respect to the exercise by the Council of its functions. These draft Terms of Reference set out:

- an overview of the Authorities' responsibilities in the area of financial stability;
- the objectives and remit of the Council;
- Annex A: Council for Financial Stability procedural matters (timing, attendance, agendas, minutes); and
- Annex B: Council for Financial Stability deputies.

Overview of the Authorities' responsibilities in the area of financial stability

The Bank of England

3. The Bank of England ('the Bank') is the central bank of the UK and as such, amongst other central bank operations, it provides liquidity insurance to the banking system and may provide emergency liquidity support in the circumstances set out in the 2006 Authorities' Memorandum of Understanding.
4. An objective of the Bank is to contribute to assessing risk and enhancing the stability of the financial system. The Banking Act 2009 requires the Bank to prepare a financial stability strategy, setting out its approach to meeting the financial stability objective.
5. The Banking Act 2009 gave the Bank specific responsibilities for the oversight of certain inter-bank payment systems and for operating the Special Resolution Regime created by the Act.
6. The Bank publishes its Financial Stability Report half-yearly; its aim is to identify risks to the UK financial system as a whole and measures that could be taken to increase the system's resilience.

The Financial Services Authority

7. The FSA is the independent body that regulates the financial services industry in the UK and has been given statutory powers and responsibilities by the Financial Services and Markets Act 2000 (FSMA). This gives the FSA four statutory objectives:
 - a) market confidence: maintaining confidence in the financial system;

¹ These Terms of Reference are a draft.. The final version will be that laid before Parliament under clause 1(5) of the Financial Services Bill once it is enacted.



- b) public awareness: promoting public understanding of the financial system;
 - c) consumer protection: securing the appropriate degree of protection for consumers; and
 - d) the reduction of financial crime: reducing the extent to which it is possible for a business to be used for a purpose connected with financial crime.
8. The Financial Services Bill amends FSMA to provide the FSA with an objective to contribute to the protection and enhancement of the stability of the financial system and to remove the public awareness objective. The Bill requires the FSA to prepare a financial stability strategy, setting out its approach to meeting this objective.
 9. The Financial Risk Outlook (FRO), currently published annually, outlines the key risks facing firms, consumers and the regulatory system as a whole. The FRO's conclusions are a key element in the FSA's priority-setting arrangements.
 10. With respect to financial stability, the FSA role centres on its regulatory and supervisory functions. The FSA is also responsible for triggering the Special Resolution Regime.

The Treasury

11. The Treasury is the United Kingdom's economics and finance ministry. It is responsible for formulating and implementing the Government's financial and economic policy.
12. With respect to financial stability, the Treasury is responsible for: the overall institutional structure of financial regulation and the legislation which governs it, including the negotiation of EC directives; and informing, and accounting to Parliament for the management of serious problems in the financial system and any measures used to resolve them. Within the SRR, the Treasury is responsible for decisions with implications for public funds, for ensuring the UK's ongoing compliance with its international obligations, and for matters relating to the wider public interest.
13. Under the Financial Services Bill, the Treasury is required to produce an annual report on the activities of the Council, and any matters which, in the opinion of the Treasury, had special significance for the stability of the UK financial system.

Council for Financial Stability: Objectives and Remit

14. The Council is responsible for considering emerging risks to the financial stability of the UK and global financial system, and coordinating an appropriate response by the UK's Authorities.
15. The Council is a monitoring and coordinating body.
16. In pursuing its core objective of monitoring the stability of the UK financial system, the Council will have regard to both:
 - strategic (medium- to long-term) developments affecting financial stability; and
 - more immediate issues.
17. In considering strategic developments, the Council will:
 - consider the statutory financial stability strategies of the Bank and the FSA – the Council will act as a forum for challenge and coordination of these strategies, but determination of individual strategies will be a matter for each independent Authority²;
 - consider (after publication) key documents, such as the Bank's FSR and the FSA's FRO, to identify what actions and responses to the risks identified are required, and to consider whether to propose to the Bank or FSA that its financial stability strategy requires updating in the light of emerging evidence;
 - consider (prior to publication) an annual report prepared by the Treasury, setting out the activities of the Council in pursuit of its overall responsibility for considering

² The Financial Services Bill requires the FSA to consult the Treasury in determining its strategy. The Banking Act 2009 requires the Bank of England to consult the Treasury in determining its strategy.



emerging risks to the financial stability of the UK, and coordinating the appropriate response by the UK's Authorities. This report will be provided to Parliament;

- discuss how the development and implementation of policy and regulatory changes may impact financial stability, and if necessary coordinate any action;
- discuss and coordinate effective communication with the market;
- discuss and coordinate the UK position on key EU and international financial stability and regulatory policy issues that are deemed to be highly material to financial stability; and
- increase the transparency and accountability of deliberations by publishing minutes of strategic (meaning non firm-specific or market-sensitive) discussions – including discussion of the Bank's FSR, the FSA's FRO and Treasury's annual report of the Council.

18. In dealing with more immediate issues for financial stability, the Council will:

- consider, on a regular and ongoing basis, emerging evidence from the financial markets as to the current stability of the system as a whole, the emergence of risks to that stability (including in relation to the activities of specific firms and business continuity), and potential mitigating action by the Authorities; and
- discuss use of the SRR tools and coordinate the process for their use where necessary, having regard to the legislative framework of the SRR and its consultation requirements.

19. In managing a financial or operational crisis, the Council for Financial Stability will meet as necessary to coordinate the Authorities' response.

20. The Council will draw on external expertise as necessary. Members of the Court of the Bank or the FSA's board may be invited by the Chancellor to attend and participate in meetings of the Council; other experts may also be invited to present evidence or expert analysis on particular issues.

21. The Memorandum of Understanding (MoU) between the Bank of England, FSA and Treasury was first agreed between the Authorities in 1997 and updated in 2006. It sets out the roles of each Authority and how they work together to pursue financial stability. The MoU complements this statement, and will be revised in time for the formal laying of this statement before Parliament, as set out in clause 1(9) of the Financial Services Bill. The developed MoU will cover:

- detail on the roles and responsibilities of each Authority with regard to financial stability; and
- detail on arrangements for handling financial and operational crisis management.



Annex A: Council for Financial Stability Procedural Matters

Timing

A1. The Council will meet at least four times a year to discuss the Bank's Financial Stability Reports, the FSA's Financial Risk Outlook, and the Treasury's annual report on the Council. These meetings will take place on a quarterly basis, and will be programmed well in advance.

A2. Meetings can be called at other times by any of the participating Authorities if it considers there to be an issue – strategic or immediate - which needs to be addressed by the Council as a matter of priority, outside the regular quarterly schedule.

A3. In the current financial markets climate, it is anticipated that the Council will meet at least monthly to discuss financial stability issues and exchange information on threats to UK financial stability.

Attendance

- Chancellor of the Exchequer, or deputy if unable to attend;
- Governor of the Bank of England, or deputy if unable to attend;
- Chairman of the FSA, or deputy if unable to attend;
- each member may be accompanied by a deputy, or other senior colleague with responsibility for financial stability;
- each member may be accompanied by a private secretary; and
- secretariat.

Agendas:

A4. Agendas will be agreed one week before the meeting and will follow the following format:

1. Reports (if any)
 - a. Summary of report to be discussed
 - b. Assessment of risks highlighted by the report
 - c. Consideration of options for mitigating action or other response
2. Other issues
 - a. Overview of the issue
 - b. Consideration of options for action or other response
3. Operational issues and risks
 - a. Updates from the Governor and the Chairman of the FSA on current issues
 - b. Crisis management, preventative and mitigating measures in relation to:
 - i. sectoral issues;
 - ii. firm-specific issues.
4. AOB

Minutes:

- Minutes of the quarterly meetings of the Council dealing with strategic matters will be published. These will be the meetings where, amongst other matters, the Bank's FSR, the FSA's FRO and the annual report on the CFS will be discussed.
- A final minute to be published no later than one month after the meeting.
- As necessary, minutes will attribute comments to individuals.
- Discussion of all matters involving firm-specific or market sensitive issues will not be included in published minutes.



Annex B : Council for Financial Stability Deputies

B1. Supporting the Council will be a regular meeting of deputies. This Annex details the ground rules for the operation of deputies meetings. Deputies will meet to prepare and advance the work of the Council.

Timing

B2. Deputies will meet at least monthly to discuss individual cases of significance and other developments relevant to financial stability.

B3. Meetings can be called at other times by any of the participating Authorities if it considers there to be an issue which needs to be addressed by the Council as a matter of priority, outside the regular quarterly schedule.

Attendance:

- Second Permanent Secretary, Treasury (Chair), or deputy if unable to attend;
- Chief Executive of FSA, or deputy if unable to attend;
- Deputy Governor (financial stability), Bank of England, or deputy if unable to attend;
- each member may be accompanied by a deputy, or other senior colleagues with responsibility for financial stability; and
- secretariat.

Frequency:

B4. Deputies meetings will be held monthly a week in advance of Council meetings, and otherwise as needed to take forward the work of the Authorities.

Agendas:

B5. Agendas will be agreed one week before the meeting.

Minutes:

- Minutes will not be published.

