

Mr C Rusbridge  
Financial Regulation Strategy Team  
International & Finance Directorate  
H M Treasury  
1 Horse Guards Road  
London SW2 2HQ

Our Ref                      gj/ah

30th October 2009

Dear Mr Rusbridge

**Special Resolution Regime: The FSMA (Contribution to Costs of Special Resolution Regime) Regulations 2009**

I am providing you with Leeds Building Society's response to this retrospective Consultation Paper. I will make some general observations and then provide responses to the specific questions set out in the Paper.

**Leeds Building Society**

Leeds Building Society is the sixth largest in the United Kingdom, with assets of £10bn, over 650,000 members, and employing 900 staff in 68 branches in the UK and 2 in Europe.

**General Comments**

I have five general comments regarding the consultation as follows:

1. There is a lack of transparency about triggering the Special Resolution Regime and in particular how the judgement as to whether the costs incurred will be greater than the recoveries as established.
2. There is no incentive on the tripartite to control costs.
3. There is no appeal mechanism.
4. With regard to recoveries, we believe a partial transfer should be regarded as a recovery, and interest earned by HMT on any consideration should be taken into account as part of a failed bank's assets.
5. We agree with the BSA proposal that you consider a more sophisticated recovery mechanism where the benefit to the transferee bank is taken into account.

## Specific Consultation Questions

**Q1 What are your views on the costs to which the FSCS can be required to contribute?**

A The FSA made creative use of the FSA rulebook when they set up the compensation arrangements following the failure of Bradford & Bingley and other banks in the last quarter of 2008. In the past, the costs would have formed part of the liabilities of the failed institution. Using that method might increase the amount of default, but would mean firms would not have to account for significant contributions to the scheme, without prior warning. See also the general comment 5 above.

**Q2 What are your views on whether the “information assumptions” required to be given to the FSCS should be set out in more detail.**

**Q3 What additional information is needed to enable the nature, scale and scope of the costs to be understood.**

A We understand the costs will be the lower of the cost setting up the SRR and the FSCS’ estimate of compensation paid out after recoveries. We consider there is a need for a greater transparency. An example of the way these arrangements would have worked using one of the bank failures in the last quarter of 2008 as an example would enable a more authoritative answer to be given to this question.

**Q4 What are your views on whether there should be a greater clarity about the purpose of the independent verification process?**

A We believe the basis of the verification should be published.

**Q5 What are your views on replacing the High Court or Court of Session with the Financial Services & Market Tribunal as the forum for the review of the independent valuer’s decisions?**

A We consider the High Court or Court of Session would be more independent.

**Q6 What are your views on the regulation 11?**

and

**Q7 Are there any specific consequences of making contributions to SRR costs which need to be included or excluded by the regulations.**

A We agree regulation 11 should provide assignment of rights of action against third parties to the FSCS and to enable the FSCS to obtain information from failed banks. The main difficulty with the market distortion caused by the SRR scheme is that if the failed bank continues as a going concern raising deposits from the market in a normal way, it will cause significant market distortions as it will have the backing of the Government.

I hope these comments are of some use in your consultation.

Yours sincerely

G Jennings  
Deputy Secretary  
0113 216 7470