

Financial stability and depositor protection: strengthening the framework

Nationwide Building Society response

Overall remarks

Nationwide is the world's largest building society with over 13 million members and assets of over £160 billion. Nationwide has mutual (as opposed to Public Limited Company) status, which means that it is owned by its members and is run day-to-day by an executive management team overseen by an elected board of directors. The Society has around 19,000 employees, with our head office in Swindon and principal administration centres in Northampton and Bournemouth.

Nationwide offers a broad range of retail financial services including consumer finance, mortgages and savings and insurance and investments. The Society is the UK's second largest mortgage lender and the second largest savings provider. Our members can manage their finances through over 900 retail outlets, by telephone, internet and post.

The proposals outlined in the consultation paper represent the most wide reaching reform to the banking system in the last 30 years. They have been designed to address five key objectives:

- Strengthening the stability and resilience of the financial system – in the UK and internationally;
- Reducing the likelihood of individual banks facing difficulties – including regulatory interventions and liquidity assistance;
- Reduce the impact if, nevertheless, a bank gets into difficulties – including the new 'special resolution regime';
- Providing effective compensation arrangements in which consumer have confidence; and
- Strengthening the Bank of England and ensuring effective coordinated actions by authorities, both in the UK – including through reforms to the tripartite arrangements – and internationally.

In principle, Nationwide supports the objectives of the package of reforms detailed in the consultation and welcomes the opportunity to work with the Tripartite Authorities to ensure that the measures are fully applicable to the industry. However, there are a number of concerns that have been outlined below in summary and will be expanded upon in response to the specific questions later in the consultation:

Tripartite operation

As with most financial crises, the Credit Crunch preceded a period of excessive liquidity. Although predicting the trigger may have been difficult, upon recognition of a crisis, the Tripartite Authorities should have moved swiftly to prevent further contagion. Ensuring the breakdown of responsibilities of the Tripartite is properly understood will help to determine why the crisis occurred and what needs to be improved to prevent a repeat. It is imperative this is first determined to avoid the introduction of unnecessary legislation, which will hinder, rather than repair, the reputation of the UK.

International Coordination

We support the intention for the UK authorities to work with their counterparts globally to improve the coordination of international financial stability and cross-

border crisis management. London is the largest financial centre in Europe and it is essential that this coordination is radically improved to ensure its reputation does not continue to suffer. Again, the emphasis here must be on proactive prevention measures rather than reactive crisis management.

Timescales

We understand the degree of urgency associated with resolving the many issues this consultation document raises, but we are concerned at the speed with which the Authorities appear to be moving. The 29 legislative proposals, 11 rule changes for FSA consultation and 23 'operational changes' cited will have a substantial effect on the UK financial services industry as a whole and on banking institutions in particular. We recognise the need for change but would caution against hasty and unnecessary additional legislative, regulatory and other changes that may cause severe damage to London as an international financial centre. This is particularly applicable to proposals for a Special Resolution Regime (SRR) and for the banking insolvency procedure in particular, which are uniquely complex.

Regulatory framework

It is paramount that the authorities operate effectively and have the necessary tools at their disposal to do so. What has become apparent since the loss of liquidity in the financial markets and the collapse of Northern Rock is that the authorities, particularly the FSA, had the necessary range of tools but executed them poorly. It would appear that a combination of changes is required, particularly around the ability of the FSA to act effectively on the report of a failing financial institution and the Bank of England's money market tools. It is also vital that the authorities work closely together, with robust communication channels and the willingness to cooperate with each other.

The recent FSA Internal Audit Report on the supervision of Northern Rock was very forthright on its failure to prevent it collapsing. It acknowledged that it had the necessary regulatory powers to intervene but they were either not executed at all or were done so inadequately. The high level recommendations and proposed enhanced supervisory programme will significantly enhance the FSA's already extensive regulatory powers. The purpose of this should be to return a bank in difficulty to a state of normality. The SRR should only be triggered once it becomes clear there is no viable alternative.

The introduction of any additional powers resulting from this consultation should be closely scrutinised in light of the FSA proposals. There also needs to be greater improvement in dialogue between banks and the FSA at senior level, which may include strengthening the quality of personnel and resources.

There also needs to be alterations to Bank of England liquidity support. The Bank should have legal responsibility for financial stability and should, as evidently occurs in other jurisdictions (including Europe), be able to rescue or organise the rescue of a bank quickly, quietly and effectively. We are pleased that The Bank has announced a review of its money market operations and instruments which it can accept as collateral.

Prevention

While the consultation document does outline many preventative measures, we believe there should be a much greater emphasis on this course of action. Nationwide believes that the overall objectives of improving consumer confidence, taking more effective preventative measures, improving supervision and clarifying tripartite arrangements are appropriate. We support the Government's initiative to

ensure the creation of processes and procedures to strengthen the banking framework and are pleased that there will be a greater emphasis on early intervention for firms that get into difficulty.

The tripartite authorities' absolute priority for strengthening the financial system should be preventing financial institutions from failing and thus risking wider market destabilisation. We can therefore see the merits for exploring heightened supervisory powers for the FSA in the case of financial institutions causing concern. It is imperative that all forms of remedial action take place before the Tripartite Authorities turn their attention to a firm entering the SRR.

SRR vs. temporary public ownership

A SRR should be used as a last resort once all FSA supervisory and intervention methods have been fully exhausted. While we understand the objectives behind the different SRR options (directed transfer; the use of a bridge bank; temporary public ownership; and a bank insolvency procedure), including this in primary legislation before undertaking full and proper consultation on the detail of the scheme will result in unforeseen and detrimental consequences. We cannot stress enough the complexity involved in the creation of this.

Additionally, we agree that rapid payment of deposits and the continued operation of banking functions are vital to ensuring consumer confidence. However, there are many unanswered questions in respect of the special resolution regime, not least of which is whether an SRR would ever be able to cope with the failure of a bank the size of Northern Rock or larger. Although we acknowledge the Government's political aversion to temporary public ownership, we believe that it would be the only viable option given the timescales that the authorities are citing.

Deposit protection

In terms of deposit protection, we totally oppose a pre-funded Financial Services Compensation Scheme (FSCS) as it is inappropriate for the UK, given the concentrated nature of the banking industry. The pre-funded FDIC scheme in the US was established to deal with the closure/failure of a large number of smaller banks, not a bank the size of Northern Rock and certainly not a building society the size of Nationwide. The vast sums of money that would be needed for an ex-ante FSCS make this completely impractical and the excuse that a pre-funded scheme works well in one country should not be used to support its application in another.

We believe that the focus should be on simpler rules and quicker payouts. Faster payments are crucial in ensuring that consumers have confidence in the banking system. The FDIC scheme is backed by the full faith and credit of the United States. It would be simpler and faster if the FSCS, supported by the Bank of England, undertook these payouts and addition reassured customers that large enough pool of money existed to cover them.

Single customer view

This proposal raises major practical and cost implications that have not been fully addressed in the consultation document. Providing a single customer view could be disproportionately costly for something that would have a low probability of being used. We believe there may be alternative methods of ensuring quick payout without the huge cost outlay this proposal would incur.

Chapter 1: Introduction and overview

1.1 Please provide detail if you think that any of the proposals in this document: are necessary and proportionate; raise significant concerns; or could be improved?

The failure of Northern Rock is still having serious and widespread negative implications for the UK. In principle, Nationwide supports the objectives of the package of reforms detailed in the consultation and welcomes the opportunity to work with the Tripartite Authorities to ensure that the measures are fully applicable to the industry. However, there are a number of concerns that we wish to outline, including:

- The FSA had the necessary range of tools but executed them poorly, a fact acknowledged by the FSA in its internal audit report. Any changes should focus on the FSA bolstering the application of these tools and FSA suggestions for heightened supervision.
- Market stress could be significantly reduced through improved Tripartite operations in the rescue of a stricken bank and a review of the Bank of England's money market operations.
- We are concerned with the apparent urgency to introduce additional, unnecessary legislation and regulation that could further damage the reputation of London as a global centre of the financial world. A better approach would be to consult on draft legislation ahead of a Bill.
- Legislating for a SRR before undertaking full and proper consultation on the detail of the scheme will result in unforeseen and detrimental consequences. A SRR should be used as a last resort once all FSA supervisory and intervention methods have been fully exhausted.
- We are very much opposed to a pre-funded FSCS, believing that it is inappropriate for the UK and feel that. The focus should be on simpler rules and faster payouts that do not come from the FSCS.

1.2 To what extent are the proposals in this document mutually reinforcing?

The proposals are only mutually reinforcing if one assumes that they are the correct proposals for preventing this type of crisis in the future. This can only be achieved if proper time is taken to fully assess the failures and weaknesses of the operation of the Tripartite.

As with most financial crises, the Credit Crunch preceded a period of excessive liquidity. Although predicting the trigger may have been difficult, upon recognition of a crisis, the Tripartite Authorities should have moved swiftly to prevent further contagion. Ensuring the breakdown of responsibilities of the Tripartite is properly understood will help to determine why the crisis occurred and what needs to be improved to prevent a repeat.

This will be particularly critical when deciding at what point a firm should enter a SRR. Clear lines need to be drawn as to who should instigate this (in our opinion, the FSA) and who should assume lead responsibility for executing powers under whichever SRR tool is used (in our opinion, the Bank of England).

1.3 The proposals in this consultation document, unless specified, are intended to be implemented for banks, building societies and other deposit-taking firms. Please provide details where this is not appropriate.

This is appropriate.

Chapter 2: Stability and resilience

It is right that the Authorities take an international approach when identifying the changes that have taken place in the global financial markets. The recent events have shown the necessity for an increase in the transparency of markets and for a review of strategy and risk appetite.

Measures under consideration in the consultation include better prudential risk management, in particular on stress testing and liquidity risk management and the operation of the securitisation market, including valuation, accounting and information disclosure. All of these options would significantly strengthen regulation and market transparency.

As the Authorities explain, the events that took place during the summer of 2007 did so under a prudential capital regime based on Basel I. It is too early to judge the impact of the new accounting standards and disclosure requirements under the Basel II/Capital Requirements Directive.

2.1 Do you agree with the actions being taken by the Authorities in the UK to improve stress testing by banks?

Stress testing as part of Pillar 1 and Pillar 2 Basel requirements will help to articulate the results of consistent scenarios to the regulator. However, unless the approach is adapted to incorporate liquidity stresses these 'isolated' stress tests will only tell part of the picture. With the FSA's recent Discussion Paper, "Review of the Liquidity requirements for banks and building societies" (DP 07/07), the Authorities appear to be heading in the right direction. Nationwide would encourage a common liquidity regime, with common stress across all participants. Our view on stress testing is fully captured within our response to DP 07/07.

2.2 Have the Authorities correctly identified the issues on which international work on stress testing and risk management should focus?

While there have been several descriptions of events that the Authorities consider to be suitable stresses on which to base stress tests, the Authorities have been less able to fully define the underlying assumptions that should be considered when modelling such stresses. A common 'book' of stresses complete with as much detail as possible would allow a consistent approach to assessing stresses on a firm: we feel that one of the areas that hindered the Authorities in the current crisis was the lack of consistent information they could draw upon. In common with questions raised in DP 07/7, consistent information on a firm during current operation and possible stresses is essential for risk management on a UK wide basis.

2.3 Have the Authorities correctly identified the issues on which the work on liquidity regulation should focus?

Seeking to ensure a greater level of consistency in regulation is a welcome step. The role of central banks, particularly the level of consistency shown across their behaviour, would be a welcome area of analysis. The areas highlighted by DP 07/7, 'Review of the liquidity requirements for banks and building societies' are all sensible measures to look and have been a requirement since the start of 2005.

2.4 Do you agree with the actions being taken by the Authorities to encourage full and consistent valuation and disclosure by banks?

We would encourage the Authorities to carefully consider the use of marked to market valuations, and in particular the instability they cause within markets: As many banks are targeted on leveraging against their balance sheet, during times of rising MTM valuations this can lead to firms aggressively lending. This increases the liquidity and thereby increases the MTM value of assets. This self-perpetuating condition can be quickly broken and, as in current times, spiral in reverse.

2.5 Have the Authorities correctly identified the issues on which international work on accounting and valuation of structured products should focus?

We are pleased the authorities have acknowledged there should be no knee-jerk reaction to the current market conditions, to give the markets an opportunity to respond to recent events.

Ensuring that valuations of assets are done on a consistent basis will help ensure that different institutions are operating on a more level playing field without the risk of being penalised by the particular basis of valuation applied by their own auditors. The desire to increase transparency of valuation methodologies, with consistency applied across different jurisdictions, is welcome.

2.6 Have the authorities correctly identified the issues on which international work on credit rating agencies should focus?

The issues identified are appropriate. It is worth looking into the issue of whether rating agencies should have more accountability over their initial ratings. Often they will revise a whole raft of ratings at once that can have a significant impact on the market value and liquidity of the underlying instrument.

2.7 Do you agree with the Authorities' proposals to improve the information content of credit ratings?

The more detail that can be provided within the initial rating, the better, as this will improve investor knowledge and modelling. However, we are not supportive of the suggestion that separate measurements for products on dimensions other than credit risk should be developed, as this would require an entirely different type of analysis.

2.8 Do you agree with the Authorities that the preferred approach to restoring confidence in ratings of structured products is through market action and, where appropriate, changes to the IOSCO Code of Conduct on Credit Rating Agencies?

Amending the IOSCO code of conduct is the preferred approach, though we also agree that if the markets do not adequately address the issue then further action may be necessary.

2.9 Have the Authorities correctly identified the issues on which international work on banks' exposures to off-balance sheet vehicles should focus?

The value of reputational risk is very difficult to assess, as it will very much depend on the prevailing circumstances at the time. The capital an institution holds should more accurately reflect the true risk position but it is important that this does not result in higher levels of capital in the system or any elements of double counting. In general, financial institutions will always seek to hold their assets in the most capital efficient manner.

Chapter 3: Reducing the likelihood of a failing bank

The recent FSA Internal Audit Report on the supervision of Northern Rock acknowledged that it had the necessary regulatory powers to intervene but they were either not executed at all or were done so poorly. The high level recommendations and proposed heightened supervisory programme will significantly enhance the FSA's already extensive regulatory powers.

We are supportive of proposals to introduce a heightened supervisory regime to prevent an institution in difficulty from failing. The purpose of this should be to return a bank in difficulty to a state of normality. The trigger for entering heightened supervision should be based on ongoing breaches by a bank of thresholds that should be based on key regulatory ratios, in particular liquidity ratios. The SRR should only be triggered once it becomes clear there is no viable alternative.

The introduction of any additional powers resulting from this consultation should be closely scrutinised in light of the FSA proposals. There also needs to be greater improvement in dialogue between banks and the FSA at senior level, which may include strengthening the quality of personnel and resources.

There should also be alterations to Bank of England liquidity support. The Bank should have legal responsibility for financial stability and should, as evidently occurs in other jurisdictions (including Europe), be able to rescue or organise the rescue of a bank quickly, quietly and effectively. The Bank should also announce a review of its money market operations and instruments it can accept as collateral.

3.1 To what extent do the FSA's range of existing powers reduce the likelihood of failure of a bank, and under what circumstances would they not be effective?

As the consultation paper mentions, the FSA already has available to it a wide range of regulatory powers and sanctions to address the problem of a bank failure. The Northern Rock crisis illustrated that these powers are ineffective if not employed in a timely fashion. The FSA may require strengthening in terms of quality of personnel and resource for supervision. We understand this may accrue a cost on Nationwide and other financial institutions in the short term, but we believe the benefits would far outweigh this to avoid the series of failures that have been witnessed over Northern Rock's collapse.

3.2 Are the FSA's existing powers, and in particular the application of them, clear and how could they be developed further?

As above, we do believe that the FSA's existing powers are clear, but the application of them was ineffective. Rather than introduce new rules and powers, the FSA's existing powers should be applied more consistently across the piece.

The Treasury Select Committee's second report 'Financial Stability and Transparency' recommends establishing a mechanism that would see the FSA or the Bank of England identify and warn relevant financial institutions of deteriorating market conditions and receive written confirmation that it would be discussed at Board level. This seems a sensible approach and is something that Nationwide supports. However, there is a question mark over whether the FSA is close enough to the markets to be able to warn

institutions of deteriorating markets before they might do so themselves and this aspect should in particular should be examined.

3.3 To what extent are the annual and one-off costs of the new information requirement on banks proportionate? Can they be quantified?

The consultation paper recommends that banks should be in a position to provide additional evidence to the FSA at short notice that they are meeting threshold conditions on an ongoing and forward-looking basis and recommends a 12 hour turn around.

Any changes that require providing additional information will potentially incur costs to set up and maintain systems to automatically produce this information. The actual cost will depend on the extent of the additional reporting required. There is also the additional concern that targeting individual banks to provide information in this manner may become public knowledge, causing people to react unnecessarily.

If Nationwide were to provide additional evidence to that which is already required by the FSA, there would need to be a set of tightly defined circumstances that would trigger such a request.

3.4 How effective would the new information requirement be in identifying and addressing a sudden deterioration in a bank's financial soundness?

There should be further consideration to the 12 hour turn around time – in an effort to meet this deadline, the quality of information may suffer and it is this information that will likely decide if a bank can continue to operate as a viable business or not. While it was evident that the onset of the current liquidity problems rapidly occurred, we believe that improved monitoring of market conditions and communication between the authorities should remove the need for such immediacy in information provision.

3.5 Are there circumstances in which it would not be appropriate for the FSA to collect and share information that the Bank of England or HM Treasury require?

Given the information that the FSA would be collecting and its motives for doing so, we believe that in the vast majority of cases not only would it be possible to share this information with the Bank of England and HM Treasury, it would also be highly appropriate. However, as there may be individual cases where information sharing would not be appropriate, we recommend this be considered further as proposals are developed.

3.6 Do you agree with the proposal for a new and flexible regime for payment systems oversight and, if so, how should its scope be defined?

In principle we agree that a flexible yet robust oversight regime should be included and believe that the Bank of England alone should have statutory oversight responsibilities for both wholesale and retail payment systems.

It should not, however, impede the efficient working of the banking system. The major clearing companies in the UK have defined sets of Rules that members adhere to, ensuring the integrity of the schemes as managed by Scheme Companies. This has proved to be effective with regular Business Continuity exercises carried out. In addition, the schemes have had to address recent live incidents with specific actions to maintain the stability of the payment systems.

The scope should be defined by consultation with payment schemes, APACS, the BBA and the Bank of England as current overseer. The aim is to ensure that existing responsibilities in the Core Banking Principles are included within the new regime.

3.7 Which elements of such a payment systems regime should be effected through statutory powers?

We agree with British Banking Association's position, namely:

- (i) The establishment of the Bank of England's formal oversight role;
- (ii) Formal "designation" (and withdrawal of designation) of appropriate payment systems (in line with the Settlement Finality Directive);
- (iii) Ensuring the orderly and efficient functioning of the national payment systems;
- (iv) Formal powers to examine, intervene and compel payment system providers to make changes (e.g. operational, technical, risk mitigation, governance); and
- (v) Accountability: the Bank to continue to publish an annual Oversight of Payment Systems report, covering developments as well as action(s) taken, perhaps with an annual hearing before Parliament (Treasury Select Committee) in line with the Bank's accountability in relation to its monetary policy and financial stability remits.

3.8 To what extent is the current provision to register charges at Companies House relevant to Banks? Do you agree it is appropriate to amend it?

The current provision to register charges at Companies House is not relevant to Building Societies. However, we would support the proposal to amend the requirement for banks in receipt of liquidity assistance after assessment has confirmed that disclosure would lead to extreme market disruption.

3.9 Should any exemption for banks only apply to receipt of ELA, or should there be a more general exemption for all types of lending?

The practicalities of any non-disclosure of Emergency Liquidity Assistance (ELA) by the Bank of England, or other party, will need to be carefully monitored as such information would have a significant impact on any credit decisions. The consultation paper states that "swift and fair disclosure by issuers of price-sensitive information is a vital element of [market] transparency, enhancing market integrity". This should be very carefully considered before any exemption is given, as anything that jeopardises the efficient operation of financial markets could have significant negative implications.

Such exemptions therefore should be extremely limited in their availability and should only be applied in those circumstances where disclosure of receipt of ELA would lead to extreme market disruption. It will be necessary to ensure that whilst the recipient of any ELA is not unduly punished by the markets, neither are other institutions by being in the dark about such assistance.

3.10 Would extending the 21-day period be a viable, alternative proposition?

This would only be a viable alternative proposition if it was felt that complete non-disclosure of ELA receipt was unnecessary but that a longer time frame would ensure that there was no wider market disturbance.

3.11 What would be the effect of removing the ‘weekly return’ reporting requirement? What other statutory reporting requirements disclose ELA?

Nationwide supports the Government’s proposal to remove the requirement for the Bank of England to release weekly reporting returns in relation to assets and liabilities. On a monthly basis, the quantum of the note issue and balances outstanding in its weekly and monthly monetary policy operations should continue to be disclosed.

3.12 Do you agree that the Bank of England should be provided with statutory immunity for any acts or omissions which relate to its role in providing financial stability and central banking functions?

In principle, yes, but we would need to see more detailed proposals as to the extent of the immunity before making a fully informed decision.

3.13 Do you agree that it is appropriate for the Bank of England to be able to rely upon its security in all such circumstances?

Yes, such an amendment would seem reasonable and would be welcomed if this was in conjunction with a widening of the support offered by the BoE, such as the widening of eligible collateral for their regular open market operations and the impact on the ranking of creditors in a bank insolvency.

3.14 Do you agree that funds provided by the Bank of England should be exempted from calculation of building societies' wholesale funding?

The specific reference to proposed legislation that provides building societies with similar access to liquidity assistance as banks is particularly welcome, as such funding is only likely to be required in difficult market conditions. Exempting such borrowing from the wholesale funding limit is a sensible, and welcome, proposal and will put building societies on an equal footing with other deposit takers such as banks.

3.15 What risks are there to building societies granting floating charges over their assets to the Bank of England?

Granting floating charges to the BoE as security is another positive for societies, as it significantly increases the eligible collateral they hold. Again, this levels the playing field with banks.

Chapter 4: reducing the impact of a failing bank

A SRR should be used as a last resort once all FSA supervisory and intervention methods have been fully exhausted. While we understand the objectives behind the different SRR options (directed transfer; the use of a bridge bank; temporary public ownership; and a bank insolvency procedure), including this in primary legislation before undertaking full and proper consultation on the detail of the scheme will result in unforeseen and detrimental consequences. It is also unclear how a SRR framework would be compatible with European collateral and winding-up Directives. We cannot stress enough the complexity involved in the creation of this.

Additionally, we agree that rapid payment of deposits and the continued operation of banking functions are vital to ensuring consumer confidence. However, there are many unanswered questions in respect of the special resolution regime, not least of which is whether an SRR would ever be able to cope with the failure of a bank the size of Northern Rock or larger. Although we acknowledge the Government's aversion to temporary public ownership, we believe that it would be the only viable option given the timescales that the authorities are citing.

There also needs to be further discussion around the triggers for a SRR. No firm should be considered for a SRR unless it has repeatedly broken key regulatory ratios. If an SRR is deemed appropriate, the Authorities could use this option, but the flexibility should also exist to allow them, if appropriate, to work with the management of the Bank in question to try to turn the bank around. The steps that follow a SRR need to be thought through as well, not least the point at which responsibility passes from the FSA to the Bank of England and how this is achieved.

4.1 Do you agree there should be a special resolution regime for banks?

The absolute priority for the authorities should be to prevent at all costs a bank getting into difficulty in the first instance. This should be achieved through the effective use of the wide-ranging powers already available to the FSA. Its focus should be to use these fully to ensure that no firm needs to enter into the special resolution regime (SRR) process unless absolutely essential.

We are not convinced that the current case for all aspects of a SRR has been made strongly enough. Even if the FSA should have recourse to a SRR for certain limited events, there should be a staged process before this is reached, which would see a firm move from 'normal' supervision to 'enhanced supervision' and then to 'directed supervision' before the SRR is invoked.

There is also the real concern that most elements of a SRR will never be able to cope with the collapse of a bank above a certain size. When examining the failures surrounding the handling of Northern Rock, it is clear that even if a SRR had been in place, the only viable method of preventing difficulties at medium and large banks from becoming systemic is temporary public ownership. For the sake of financial stability, the Tripartite Authorities should consider the use of this tool as one of the first options, not as a last resort once the other SRR tools have been rejected.

4.2 Do you agree that the trigger for a bank entering a special resolution regime should be based on a regulatory judgement exercised by the FSA, in close consultation with the Bank of England and H M Treasury?

Yes, we believe that it should, but in consultation with the affected bank. A predetermined list of factors would not be appropriate, as different banks and building societies employ different risk management and business models. One suggestion is that a bank is involved in the ongoing breach of explicit requirements, such as capital and liquidity requirements

4.3 Do you agree that the trigger should be linked to regulatory guidance material?

This should be clearly outlined in guidance/the FSA handbook, particularly in relation to what circumstances it will apply and how a firm can appeal against the action.

4.4 Do you agree with the special resolution regime process as outlined?

The authorities must recognise that a SRR is a last resort and should apply it as such, after having fully applied all other regulatory powers to prevent a bank getting into difficulty.

4.5 Do you agree that the potential abridgement of property rights in the special resolution regime can, in principle, be justified with a suitable public interest test?

4.6 What safeguards and appeal processes would be needed to support a public interest test for the special resolution regime?

4.7 Do you agree that the Authorities should have the power to direct a sale of a bank possibly against the wishes of directors or shareholders?

Again, this should only be used as a last resort if all other means have failed, but if it had to be used, it would help to minimise the fallout from the failed bank. This decision would need to be taken jointly by the Tripartite Authorities.

4.8 Is judicial review the correct mechanism for challenging a decision to institute the directed transfer?

A judicial review would be one appropriate independent mechanism for the challenge of the decision to institute a directed transfer. However, this has to be tempered with the potential for this to delay the process, which defeats the point of directing a sale. It must also be remembered that a judicial review relates to the way in which a decision has been made, rather than the decision itself.

4.9 Is the Financial Services and Markets Tribunal the right forum for resolution of transactional issues such as valuation or distribution of proceeds among stakeholders?

The Financial Services and Markets Tribunal is an independent judicial body that provides a forum for the independent review of decisions made by the FSA, but has no remit with respect to HM Treasury or the Bank of England. There should also be consideration of the expertise of the Tribunal, which largely comprises lawyers. While its independent nature may make it a possible forum, in its current form it is not clear whether this would actually be the case.

4.10 Do you agree that, in tightly defined circumstances, the Authorities should be able to take control of a failing bank through effecting a

transfer of some or all of its assets and liabilities to a bridge bank? Do you agree that that some flexibility in the description of these circumstances is also desirable?

Again, we believe that for banks above a certain size, only temporary public ownership will be able to cope. The use of a bridge bank should again be a last resort after all other means have failed. Additionally, authorities should only be able to transfer all of a failing banks assets and liabilities to the bridge bank rather than choose those that are in profit to be transferred, leaving the unprofitable ones in the residual bank.

It is not clear how this bridge bank would be established, in terms of personnel, operations and funding. Operationally, it would be best to leave the accounts where they are and simply transfer their ownership. Additionally, if a bridge bank were included in a SRR, it should only be allowed to carry on business for a maximum of six months, rather than the 12 suggested in the consultation.

It would be preferable for the bank in question to undergo temporary public ownership until it can be transferred to a proper long term home.

4.11 Do you agree with the removal of shareholders' and directors' rights and temporary suspension of creditors' rights under this bridge bank proposal?

We do not agree with the suggestion that creditors' rights should be temporarily suspended.

4.12 Is judicial review the correct mechanism for challenging a decision to transfer to a bridge bank?

See our response to question 4.8.

4.13 Is the Financial Services Markets Tribunal the right forum for resolution of transactional issues such as valuation or distribution of proceeds among stakeholders?

See our response to question 4.9

4.14 Should a new bank insolvency procedure be introduced for banks and building societies as an option for the Authorities instead of normal insolvency procedures?

While it is clearly important that depositors are reimbursed more quickly, there must be very careful consideration of the impact that a new insolvency regime could have on the cost of wholesale funding, due to the disruption of property rights of creditors other than depositors. This proposal would be a substantial change to the existing framework and we consider a detailed review before committing to legislation. Consideration should perhaps instead be given to adapting the tools under current insolvency and administrative legislation.

4.15 Do you think that there ought to be provision in the bank insolvency procedure for continued trading of some of the bank's business in the interests of depositors or other creditors? If so, how do you think this might work?

It would be in everyone's interest to keep the business as intact as possible and continuing to trade. This would make it potentially easier to sell on as a going concern and is why we advocate the use of temporary public ownership for banks above a certain size. However, if a bank has entered an insolvency procedure, we are unsure how it could continue to trade.

4.16 Should the objectives of a bank liquidator be limited to assisting a rapid FSCS payout to eligible depositors and then winding up the affairs of a failed bank? Should the proceedings have any other statutory objectives?

The bank liquidator should use any monies readily available to repay deposits that would otherwise come from the FSCS. However, as the FSCS will only ever be able to deal with the collapse of a small bank, this will likely only cover a fraction of the total deposits that would need repaying.

4.17 Should a bank insolvency be subject to the overall supervision of the authorities?

See our response to question 4.14.

4.18 Should a bank insolvency procedure be a stand-alone regime in which the bank liquidator has the combined powers of an administrator and liquidator? Are any other powers required?

See our response to question 4.14.

4.19 Should the FSCS cover any additional costs that a new bank insolvency procedure may incur?

No, these additional costs should be picked up by the insolvent bank (administrator/liquidator) ahead of other creditors.

4.20 Should further consideration be given to the introduction of depositor preference?

Paragraph 4.42 of the consultation paper outlines the arguments for and against depositor preference and concludes that, “the claims of the FSCS and depositors (whose claims are not settled by the FSCS) will continue to rank alongside the claims of other ordinary unsecured creditors”.

We agree that the status quo should continue, as we have concerns over increasing the cost of wholesale funding arrangements for building societies if depositor *preference* were introduced. In any case, it is unclear from what has been proposed under the SRR that de facto depositor preference would not occur as a matter of course.

4.21 Do you agree that commencement into insolvency should be controlled by the Authorities, for example through requiring that 14 days prior notice be given to the FSA? Should normal insolvency proceedings be retained alongside the bank insolvency procedure?

See our response to question 4.14

In addition, paragraph 4.45 states that, “the purpose of including a 14-day notice requirement to the FSA would be to prevent a bank from being placed into insolvency proceedings before the decision has been taken on whether it should be placed in the SRR”.

We agree that the commencement into insolvency should be controlled by the authorities. However, if the FSA has exercised its existing powers fully, then it will have known for some time what state the bank is in and the authorities will therefore, following the failure of the FSA’s ‘directed’ supervision level, be able to make an immediate decision on whether the bank enters the SRR or is placed into insolvency.

This removes the need for any notice period, let alone a 14 day notice period, which would be unnecessary and would risk the potential of a run on the bank in question during this period if it becomes public knowledge, which recent events have shown would be more than likely.

4.22 What should the governance arrangements for the SRR be?

The FSA should be responsible for any heightened supervisory regime established. The bank of England should be responsible for its administration of a SRR. However, the decision for a firm to enter a SRR should be taken by the Tripartite Authorities as a whole.

4.23 Do you consider that introducing the office of the restructuring officer as part of the SRR would be a helpful and necessary development?

The restructuring officer would have to be someone with a great deal of experience in these matters such as the recent appointment of Ron Sandler at Northern Rock. There would also have to be careful consideration about the timing of the appointment, to avoid any information being leaked to the public in advance of the appointment.

4.24 Do you have any comments on the specific implications for shareholders, creditors or directors from the appointment of the restructuring officer over and above those already raised by the other resolution tools?

No.

4.25 Should the Government have the power to take temporary ownership of a failing bank, in order to facilitate a more orderly resolution? Under what circumstances would it be appropriate for this power to be exercised?

If a bank above a certain size fails, we believe that temporary public ownership is the only way to mitigate the immediate risk of it becoming systemic. Once in public ownership, further decisions could then be taken regarding which SRR mechanism would be most appropriate. However, the argument of moral hazard would have to be carefully considered in conjunction with this decision.

This would also remove the need for the FSCS to become involved if the Government guarantees deposits. This would keep funding in the business and make it easier to dispose of the assets.

4.26 Do you agree that the special resolution regime should be extended to building societies but not other mutuals?

See answer to 4.29

4.27 Do you agree with the proposals for a new accelerated directed transfer procedure for building societies, similar to that proposed for banks?

See answer to 4.29

4.28 Do you believe a form of temporary public sector control through a bridge bank should be provided for building societies?

The core concern is loss of membership due to demutualisation upon entering the bridge bank, and whether a society entering the bridge bank will be in a position to compensate members for any residual value in its business. This would then make the process for a merger with another society more difficult

This could also feasibly put members of a building society in a worse position than a bank's shareholders in a similar position: after 12 months in the bridge bank, the bank's situation could be significantly better than upon entering, meaning that shareholders would gain better recompense.

4.29 Do you agree that a building society insolvency procedure should exist for building societies alongside a similar model for banks?

In most circumstances, the preferred option would be to force through a direct transfer to another building society, as has regularly happened in the past without any loss of deposits for members. Timescales would need to be kept as short as possible to avoid a run, which would mean no vote for members and the production of a time-consuming transfer statement should not be required. However, due to our size, Nationwide would be the only society where an insolvency procedure would not be immediately applicable – temporary public ownership would be the only viable option.

4.30 Do you agree that the Treasury should make an Order under the 2007 Act to ensure that, on the winding up or dissolution of a building society, any assets available to satisfy the society's liabilities are applied equally to creditors and members?

We agree with the Government's concerns over increasing the cost of wholesale funding arrangements for building societies if depositor *preference* were introduced.

The Building Societies (Funding) and Mutual Societies (Transfers) Act 2007 provides Government with the power to place members' funds on an equal footing with wholesale creditors in the event of a building society becoming insolvent. We fully support the Government's proposal to introduce an Order to ensure that building society members should be ranked *pari passu* with other creditors, as is the situation with depositors in banks.

4.31 Should the industry contribute to the costs of an SRR?

No, these should be picked up by the bank, the acquiring bank or the Government if entering temporary public ownership, since they will be the beneficiary of the SRR.

4.32 Would mechanisms other than the FSCS be appropriate for addressing such cost issues? How might such mechanisms work?

See our response to question 4.31.

4.33 Are there any other mechanisms available to secure access to payment systems for agency banks in the event of a settlement bank failure?

None can be identified other than agency banks having secondary banking contingency arrangements through other sponsors. This could be a costly exercise to maintain, however the "switch over" to the secondary provider would be a relatively convenient and expedient means to the agency bank continuing business. Funding arrangements within the secondary bank would need to be robust and cost effective.

4.34 Are there contingency measures that banks could adopt to ensure that their organisation and structure are compatible with the tools proposed in the special resolution regime?

A contingency plan must be in place and will be reviewed regularly by the FSA, in accordance with its assessment of firms' risk in under its prudential supervision rules.

4.35 Do you agree that the Government should take a power to enable it to make secondary legislation in relation to financial collateral arrangements, and with the proposed definitional scope? If not, why, and what would you suggest?

Strengthening the protection afforded to lenders is welcome, but the consultation paper does not stipulate which financial collateral arrangements are to be changed. We would need to see more detail in this area before making any further comments.

4.36 Do you have any suggestions as to future revisions to the financial collateral regime that should be considered?

In order to fully comment on any proposal we would need to see more detail from the regulator.

Chapter 5: Consumer confidence and compensation arrangements

The best protection for depositors comes from preventing a bank failing in the first instance. Therefore, it should be ensured as far as possible that banks are profitable and funded appropriately, and the market in which they operate is effectively regulated. This includes enhanced supervision and the use of any appropriate SRR tools.

If the FSCS has to be called upon, it should be as a last resort, once all other options have been exhausted. It must be robust enough and provide enough clarity to raise consumer confidence to a level that will prevent a run on the bank and the risk of possible wider, even systemic, contagion. In this context, we believe that the proposal for a pre-funded depositor protection scheme will prevent this aim from being achieved. The message this conveys is that a pre-funded FSCS is not only necessary but that it would have prevented a run on Northern Rock and will be large enough to cover any future eventuality. This is an inaccurate assumption and would necessitate Nationwide having to articulate this.

A pre-funded FSCS is completely inapplicable to the UK, given the concentrated nature of the banking industry. The pre-funded FDIC scheme in the US was established to deal with the closure/failure of a large number of smaller banks, not a bank the size of Northern Rock and certainly not a building society the size of Nationwide. The vast sums of money that would be needed for an ex-ante FSCS make this completely impractical and costly, not only because this would tie up capital that banks could use elsewhere, but also because the majority of deposits are held with institutions, like Nationwide, for which the size of the fund would be inadequate. The excuse that a pre-funded scheme works well in one country should not be used to support its application in another.

Instead, we believe the FSCS should remain an ex-post scheme. To engender consumer confidence in the scheme, the focus should be on simpler rules and faster payouts. This could be achieved by a move to gross payments in conjunction with the removal of coinsurance and increasing the compensation limit to £35,000, which covers 94% of our deposit base.

The FDIC scheme is backed by the full faith and credit of the United States. It would be simpler and faster if the FSCS, supported by the Bank of England, undertook these payouts and addition reassured customers that large enough pool of money existed to cover them.

While we are supportive of increasing consumer awareness of the FSCS, careful consideration should be given to the central messages, to ensure that risk-averse customers do not inadvertently misinterpret any information. The Government, banks and building societies, the FSA, the FSCS and consumer bodies should all participate in this information distribution.

5.1 How would a higher compensation limit affect consumer confidence?

The £35,000 compensation limit protects 94% of Nationwide depositors and we believe that confidence amongst this group will remain largely unchanged. The authorities should focus on preventing a bank getting into difficulty, rather than trying to place the emphasis on deposit insurance as the primary method of protection. The level of deposit protection was not a key driver in starting the run on Northern Rock.

Consumers with balances in excess of £35,000 would benefit if the compensation limit were to be increased, but while this may nominally improve levels of consumer confidence, the total number of consumers affected by this change is small and the costs would be disproportionate to any potential uplift in consumer confidence. This appears to be acknowledged by the Government on page 80 of the consultation paper, which shows only 1% of respondents were able to correctly identify the deposit protection level, even after the Northern Rock event.

The most important element of consumer compensation is simplicity. Gross payments may well be of more benefit to maintaining consumer confidence.

5.2 How would a higher compensation limit affect the responsibility consumers have for their financial choices?

While there be a case for considering an increase in the deposit protection limit, consumers would have to be much more aware of the FSCS and the deposit protection level. However, as one of the desired outcomes of this consultation is to achieve this, a higher compensation limit, alongside the removal of co-insurance, is likely to undermine consumer responsibility, as they could afford to be less discerning and would feel able to invest in riskier products with the highest interest rate available, in the knowledge that they would be compensated up to the limit within seven days.

5.3 How would a higher compensation limit for deposits affect consumer perception of other financial products?

Whilst there is some risk to market distortion between deposits and other financial products, it is probable that only a very small number of consumers even consider this issue when they are deciding what to invest in and who to invest with. We therefore feel it is unlikely that this situation would materially change if the limits are increased.

5.4 Which of the solutions to cover balances above the compensation limit is the most practical, desirable and/or proportionate, and why?

We do not consider any of the proposals to cover balances above £35k as practical or desirable, as the FSCS was not designed to provide cover for significant sums of deposit monies but to act as an initial safety net. Additionally, as 94% of our customers are fully covered under the existing scheme, increasing the compensation limit would have a very small impact on consumer confidence, but a large impact on the costs of the scheme.

Option 1, spreading balances, is not only impractical but makes no commercial sense. We cannot envisage any situation where one financial institution advises customers with more than £35,000 to move their excess money to another financial institution. For Nationwide in particular, we are the UK's second largest savings provider and as a building society our retail:wholesale funding ratio is limited by the Building Societies Act 1986. We depend on deposits in order to operate competitively, so advising depositors to move their money out of Nationwide would have serious consequences.

Option 2, deposit insurance, is unlikely to prove popular with customers, as the compensation scheme is not something that the vast majority take into consideration at the time of purchasing an account.

Option 3, an increased/unlimited limit for certain accounts, is effectively a different deposit insurance option but with the risk transferred onto the industry. The FSCS was not designed to cover significant deposits, but rather the first level of personal liquidity. We also cannot see that many people wishing to put their money into an account that bears no interest.

5.5 What types of large balance should be subject to additional protection, and in what circumstances?

We do not think it's desirable to introduce additional complexity into the scheme and would not want to create a new account type to be able to give large deposits additional protection for a short while. It would be hard to identify 'temporary' large deposit transactions to existing Nationwide accounts and there would be a high cost to institutions to create this new account type.

5.6 Are there other circumstances, apart from client accounts, where consumers have little influence on where accounts are opened? What are your views on how the issue of client accounts might be addressed in relation to compensation payouts?

We agree that the FSA needs to consult further on this issue.

5.7 What are your views on a one-week target for FSCS payment?

While we believe that a fast payout is an essential element of any deposit insurance scheme, a one week target is an unrealistic goal for an organisation the size of Northern Rock, let alone Nationwide or an even larger bank. We also think that the proposal for a single customer view is impractical and disproportionately expensive.

There are many management issues to consider that the consultation appears to assume could happen in seven days, including:

- The type of account would have to be determined – if facilities are to be limited, this would mean developing a new type of account, the costs of which would be vastly disproportionate.
- Our branches would not be able to cope with opening a very large volume of FlexAccounts within 7 days whilst dealing with an equally large volume of savings account openings and business as usual.
- Nationwide and 3rd party suppliers would not hold a large enough stock of cheque books/cards to enable a very large volume of FlexAccounts to be opened within 7 days. This would be exacerbated by the fact that 3rd party

suppliers would also be trying to supply other financial institutions in the same situation.

- Experian may not be able to cope with a large volume of credit score requests.
- Power of Attorney would take longer than 7 days to set up, as would transferring direct debits/standing orders.
- Customers might not meet Nationwide credit scoring requirements for debit card facilities, even if they did at their previous institution.
- Customers may not qualify for their previous overdraft amount.
- Nationwide account opening system requires certain ID to be confirmed before allowing FlexAccount opening to proceed.
- The logistics of making the payments are not feasible.

5.8 How feasible would it be for banks to provide instant access to the funds provided by FSCS cheques as soon as they are deposited?

We do not understand why payments cannot be made using existing payment channels from the failed bank. Cheques are a slower and less effective method of payment and alternatives to this, such as electronic transfers, should be properly considered. Given the timetable outlined in paragraph 5.21 of the consultation, all banks would need to have improved account opening procedures under KYC principles in order to be able to receive payments faster. If this was possible then payments could be made electronically as an alternative to cheques.

Alternatively, if FSCS cheques were drawn on Government-backed banking arrangements, they could be presented to banking tills with proof of customer identity and treated as “cleared funds” giving recipients immediate access to funds. Limits for such encashment would need to be relevant since this could further drain cash holdings at banks presented with such cheques.

5.9 Are there other means to ensure consumers have access to funds within one week, including alternative payment methods to cheques?

See answer to question 5.8

5.10 How effective would interim payments be in mitigating consumer detriment when a full payout is not possible within a week?

The issues of concern would be the same as for questions to 5.7 and 5.8. However, as amounts would be smaller, this could be a better solution – it would provide immediate short-term liquidity for consumers, could actually help to maintain financial stability and may provide the FSCS with more time to verify eligible claims. There would still be cost implications, as a new account type would have to be created.

However, interim payments may not be enough to allay consumer fears, as it could be perceived as a signal that the total banking solution is not adequate to meet arrangements. Consumer awareness of this mechanism would need to be widespread, so that it is understood they would be guaranteed to receive their full entitlement in due course.

5.11 How quickly could banks make the changes to have the necessary information readily available on account balances of FSCS-eligible depositors, and what would be the cost to them?

Currently, we are unable to provide an immediate, “real-time”, aggregated single view of our customers’ balances. This proposal therefore provides

major practical implications. The consultation document does not properly consider the huge costs and deployment of IT resource that would be needed. We are currently undertaking a society-wide technology upgrade, at a very substantial cost, which will deliver this solution for us. We would not want to have to amend this, which will take a great deal of time to achieve and would likely be disproportionately costly given the low probability of the information being used in practice.

5.12 Should banks follow a common data standard or format, and, if so, what would this entail?

This would have significant cost implications, which we feel would be disproportionate. See our response to question 5.11.

5.13 What information should be included in a single customer view and what would be the implications for firms of different information requirements?

As discussed above, we believe that a single customer view is unrealistic. There is a huge potential amount of information that would need to be included in a single customer view, including:

- We currently do not have this information available overnight, so there would need to be development of technology to be able to collect and produce the data. There may also need to be an additional data run made every night.
- We are unsure what would happen to overdraft facilities of accounts being transferred to another bank.
- Would any assessment of customer 'quality' be provided to banks opening the account, especially if they are being asked to provide bank facilities with cleared funds without having scored the customer? It is also unclear whether the data could be supplied to an organisation like Experian to assess individual credit scores or rate the overall credit quality.
- If the gross payment rule is not introduced, details of all debts would be needed.

5.14 How would banks place a 'flag' on accounts that are not eligible for FSCS payments?

'Flags' are already applied to certain member accounts for the purpose of identification. There are different ways of applying flags based on specific requirements, the account and the systems used to operate them. However, we envisage difficulties in applying flags for ineligible accounts, as this would increase the complexity of the system.

5.15 Are there other classes of depositor that should be ineligible for FSCS compensation payments, and, if so, why?

The current scope for eligible claimants is adequate and should be maintained. The proposals to widen eligibility (deposits by other credit institutions; deposits that have 'the nature of equity'; deposits arising from transactions related to money laundering) is unnecessary and should be resisted, as the FSCS was not established to protect these additional classes of depositors.

5.16 To what extent would gross payments help maintain depositor confidence and speed up payment?

The vast majority of consumers are unaware of the current FSCS rules in relation to offsetting, so in this respect gross payments will do little to increase consumer confidence. However, gross payments may well assist in speeding up payments, which will increase consumer confidence in the scheme if consumer awareness of this is increased.

5.17 To what extent are gross payments justified by maintaining depositors' access to liquidity as well as by accelerating payments by the FSCS?

It would be advantageous for customers, who would be able to maintain their liquidity position, thus strengthening the credibility of the FSCS. However, there would need to be appropriate indemnities/procedures to enable banks to recover corresponding assets.

5.18 What are your views on the link between FSCS gross payment and set-off?

The FSCS could have a liquidity role to play, which would be supported by the Bank of England, to facilitate gross payments.

5.19 Are any other measures necessary to better align FSCS rules and the provisions of the proposed bank insolvency procedure?

It would be necessary to change current insolvency legislation, as mandatory set-off is currently law.

5.20 What are your views on the removal of the formal claims process? What risks would be involved in the FSCS automatically sending out cheques and how can they be mitigated?

There are several key risks associated with removing the formal claims process. Firstly, there is the issue of daily transactions. Balances will be constantly changing and it will therefore be difficult to return the correct level of money to the member that quickly. Along with this, administrative errors are likely to occur if such high volumes are being sent out so quickly. There is also the very real threat of large scale fraud with the automatic disbursement of such volumes of cheques.

5.21 What are your views on the introduction of an element of pre-funding into the FSCS?

A pre-funded FSCS is completely inapplicable to the UK, given the concentrated nature of the banking industry. We are disappointed that there does not appear to be greater recognition of this from certain elements of the Tripartite, nor from the Treasury Select Committee.

The pre-funded FDIC scheme in the US was established to deal with the closure/failure of a large number of smaller banks, not a bank the size of Northern Rock and certainly not a building society the size of Nationwide. The vast sums of money that would be needed for an ex-ante FSCS make this completely impractical and costly, not only because this would tie up capital that banks could use elsewhere, but also because the majority of deposits are held with institutions, like Nationwide, for which the size of the fund would be inadequate. An FSCS comprising of pre- and post-funding would provide even less consumer confidence, as the pre-funded pot would be even less likely to meet consumer demand.

The FSCS should remain an ex-post scheme. To engender consumer confidence in the scheme, the focus should be on simpler rules and faster payouts. This could be achieved by a move to gross payments in conjunction with the removal of coinsurance and increasing the compensation limit to £35,000, which covers 94% of our deposit base.

The FDIC scheme is backed by the full faith and credit of the United States. It would be simpler and faster if the FSCS, supported by the Bank of England, undertook these payouts and addition reassured customers that large enough pool of money existed to cover them.

5.22 What steps would need to be taken to ensure that pre-funding would be compatible with other elements of the FSCS funding arrangements?

See our response to question 5.21.

5.23 What are your views on whether the FSCS should be permitted to borrow from the Government or the Bank of England?

As pre-funding is not a realistic option for the UK, this option should be explored, as it provides greater flexibility and will help to achieve faster compensation payments, so long as the borrowing is only drawn down when payment is required.

5.24 How soon could streamlined procedures for opening accounts be introduced so that the one-week target for opening a new account can be met?

See our response to question 5.7

5.25 Are there additional risks which need to be considered with this faster account opening method?

Given the large volume of applicants, reduced ID requirements and monies being issued as cleared funds via cheque, there would be great scope for fraud, including:

- Money laundering
- Account takeover
- Customer might apply for other accounts on the strength of FlexAccount opening which might not have met standard Nationwide ID requirements
- Customers might also fraudulently apply for other accounts (i.e mortgage, personal loan, credit card) on the strength of the FlexAccount opening.ID:
- Nationwide account opening system requires certain ID to be confirmed before being allowed to proceed.

Other considerations include:

- Customers might not meet Nationwide credit scoring requirements for Debit Card facility even if they did at previous institution
- Customers may not qualify for their previous overdraft amount

5.26 How else could the account opening process be sped up?

See our response to question 5.8.

5.27 What else would be needed to enable banks to provide instant access to funds following the deposit of a FSCS compensation payment?

Instant access to FSCS payments would very much depend on the instrument used to make the payment. Liquidity support might also be needed in certain circumstances. See our response to question 5.8.

5.28 What notification requirements on compensation should apply to banks, and how can they be made less burdensome? Would these have an effect on market stability or depositor confidence?

Overall, we support measures to improve consumer awareness of and therefore confidence in the FSCS. As an organisation we already include details of the current compensation scheme within product and as such plan to continue doing. This should be undertaken through the FSA, the FSCS and consumer bodies and Nationwide would be happy to discuss how to achieve the desired outcome with our members.

The authorities must work with the industry to carefully consider the messaging that would be communicated to consumers, to ensure that risk-averse consumers do not misinterpret the information. Additionally, changes to the FSCS will have to occur, introducing the gross payment rule – if this does not happen, consumers will be made aware of the impact their loans / mortgages may have on their savings, creating the very real risk that they will move one to another financial institution.

5.29 How should the disclosure requirements be imposed?

This is only one method that could be used. Further investigation in this area needs to occur.

5.30 What would be the best way for DWP and HMRC to make payments in the event that consumers did not have access to their bank accounts?

Given that the Government have encouraged DWP and HMRC claimants to receive benefits by electronic means and this has not proved completely successful, one solution would be to revert to issuing paper instruments. If the proposed plan in 5.72 was introduced, appropriate security measures would need to be in place for issuance and delivery of the same. If this plan is put into place before the event, then it would go a long way to achieving the Government objective as outlined above.

5.31 What are your views on the proposed changes to increase FSCS management flexibility?

There is the possibility of streamlining the FSCS, but there are significant issues that must be considered when determining the extent of this.

5.32 Are there other possible changes which could increase management flexibility for the FSCS or enable it to process a large volume of claims quickly in the most cost-effective way?

This needs to be explored further.

5.33 What are your views on the use of risk-based levies or on the introduction of behavioural factors into the calculation of the levies?

We are the second-largest savings provider in the UK, so under the current FSCS we have to pay the second-largest levy. This uniform pricing structure is unfair, as it does not recognise those organisations, such as Nationwide, who are very prudently funded. Therefore, we are in favour of introducing a risk-based approach, which will provide incentives to encourage prudential risk management.

Chapter 6: Strengthening the Bank of England

6.1 What are the benefits of formalising in statute the Bank of England's role in the area of financial stability, and giving its Court responsibility for overseeing its performance in this area?

We are supportive of this proposal, as it will enable the Bank of England to take responsibility for financial stability seriously.

6.2 To what extent would the proposals improve the ability of the Court of the Bank of England to oversee the Bank of England's performance including its enhanced role in the area of financial stability?

We support all the proposals outlined in the consultation paper, as it should make the management of issues more focussed, streamlined and prompt.

Chapter 7: Effective Coordination

7.1 To what extent will the proposals enable an improved handling of a financial crisis?

The proposals should clarify the roles and responsibilities. However, the system will still be dependent on a small group of key people identifying the problem, understanding the key issues and coming up with the right response in a highly pressurised situation. The tripartite should be able to draw on expertise from the private sector when necessary.

7.2 To what extent would the proposals strengthen the operation of the IMF and FSF?

Anything that will help to avoid problems arising in the first place or to make sure they are dealt with quickly and efficiently when they do happen would be welcome.

7.3 To what extent would the proposal for the IMF and FSF to work together to develop an early warning system be helpful in improving risk identification and financial sector resilience at the international level? How would this best be implemented?

The development of an early warning system may be preferable and the IMF and FSF should work closely with the industry to develop this. However, even if risks are identified sooner and are clearer, it is not certain what action, if any, banks would want to take, given competitive pressures.

7.4 To what extent will these proposals aid authorities in managing international financial crises?

A coordinated approach that would improve the speed and effectiveness of the response to any potential crisis would be welcome.

Impact Assessment

A.1 Do you have information that would improve the analysis of this impact assessment?

See our response to question 5.11 on a single customer view.

A.2 Do you believe that the impact on building societies of the tools within the special resolution regime is different to that on other banks?

All building society failures, except possibly Nationwide, could be dealt with more efficiently using a more efficient directed sale mechanism. For Nationwide, due to our size, temporary public ownership would be the only practical option.