

## General

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?

It is vital that the deposit protection arrangements be maintained at 100% of deposits. This should be indicated in each bank branch so that customers understand this. Speed of response by FSCS to a bank closure is vital.

The case has not been made for covert operations. There is no evidence to support the view that a covert operation would have helped at all. It would have distorted the markets for securities in connection with Northern Rock.

The FSA needs to stress-test its own arrangements for handling a major bank failure.

## Chapter 2

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

Liquidity testing is clearly vital alongside the usual testing against changes in general economic assumptions.

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

I don't think that any great solutions are available in this area. Markets for different types of securities will dry up unexpectedly from time to time. The mistake is the assumption that valuation models work in unpredictable environments.

## Chapter 3

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?

It is one thing to have a power. It is quite another to use it. Bank failures are not inherently a bad thing in the way in which they weed out those institutions that are incapable of functional profitable way.

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

It is highly relevant in revealing the state of banks and the position of other creditors. It is extremely important that this is not changed.

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?

No exemption should apply. The market including depositors have the right to know when an institution is in trouble. Covering it up in the short term merely distorts the markets. There is no empirical evidence to suggest that covert operations would have prevented the Northern Rock situation. Even if they would have done so, it would have been at the expense of clean markets and depositors.

## Chapter 4

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

This makes sense in view of the need to move deposits out of a bank and to pay any FSCS money quickly.

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 HM Treasury?

Reasonable enough.

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?

Yes.

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

Yes. Once a bank has failed, the burden on the FSCS should remove the normal controls that shareholders and management have.

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

Yes

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

Yes

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?

Very much so.

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

So long as it is really temporary.

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?

Yes.

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?

No. The only legitimate interest here is the protection of depositors.

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?

This idea sounds fine.

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

Standard or similar insolvency should continue to govern the winding up of the company once eligible depositors have been effectively protected by the special process.

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?

When a bank failure would have serious systemic implications for the payments and other aspects of the financial system.

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

Yes

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

Yes

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

Yes

## Chapter 5

5.1) How would a higher compensation limit affect consumer confidence?

It would increase it particularly for cautious investors who under the current proposals would have to put deposits in almost every major institution to avoid exceeding the £35,000 limit.

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

No effect whatsoever. If the FSA could not identify that customers' deposits were at risk with Northern Rock, how is the customer supposed to work it out?

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

No effect.

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

The right approach is to set a figure a bit higher than the current proposed £35,000, perhaps £50,000 and plaster it on every bank branch for consumers to see it. Over that limit, depositors should then be treated as unsecured creditors.

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

It sounds right.

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

Set-off should not be permitted if you want to stop runs on banks.

## Chapter 6

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?

Not great.

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?

None

## Chapter 7

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

Bridge banks, 100% depositor protection, 1 week FSCS payments and more direct intervention should help.

A.3) Do you agree that small businesses would not be affected by these proposals in a different way to other consumers?

Yes