Institute
and Faculty
of Actuaries

Banking reform: draft secondary legislation

HM Treasury

Consultation Response

9 October 2013

About the Institute and Faculty of Actuaries

The Institute and Faculty of Actuaries is the chartered professional body for actuaries in the United Kingdom. A rigorous examination system is supported by a programme of continuous professional development and a professional code of conduct supports high standards, reflecting the significant role of the Profession in society.

Actuaries' training is founded on mathematical and statistical techniques used in insurance, pension fund management and investment and then builds the management skills associated with the application of these techniques. The training includes the derivation and application of 'mortality tables' used to assess probabilities of death or survival. It also includes the financial mathematics of interest and risk associated with different investment vehicles – from simple deposits through to complex stock market derivatives.

Actuaries provide commercial, financial and prudential advice on the management of a business' assets and liabilities, especially where long term management and planning are critical to the success of any business venture. A majority of actuaries work for insurance companies or pension funds – either as their direct employees or in firms which undertake work on a consultancy basis – but they also advise individuals and offer comment on social and public interest issues. Members of the profession have a statutory role in the supervision of pension funds and life insurance companies as well as a statutory role to provide actuarial opinions for managing agents at Lloyd's.

Banking Reform Bill Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

9 October 2013

Dear Sirs,

Banking reform: draft secondary legislation

The Institute and Faculty of Actuaries (IFoA) welcomes the opportunity to comment on the secondary legislation published in this document. The IFoA is the chartered professional body for actuaries in the United Kingdom. This response has been prepared by members of the IFoA's Pensions Consultations Sub-Committee and concentrates on paragraphs 38-42 of Annex E, where the draft legislation addresses issues that will have an impact on pension schemes. The IFoA suggests that there are additional factors that affect the statement of implications and that HM Treasury should consider these when drafting this legislation.

The IFoA takes the view that segregation may not necessarily trigger a section 75 debt. The IFoA believes that the government should seek specific legal advice on this point and would ask HM Treasury to clarify whether the policy intention is to permit any, or all, of the current methods of withdrawal from a multi-employer scheme outside of the triggering of the section 75 debt.

The IFoA believes that if Trustees perceive a weakening of the employer covenant (the IFoA considers this likely), they might wish to obtain an upfront price (e.g. additional funding) for agreeing to the bulk transfer, or segregation. The IFoA believes this could be in relation to both new schemes and sections. This would clearly have an impact on the bank's capital available to meet its capital adequacy calculations.

Based on the experience of IFoA members, the Pensions Regulator (tPR) may want to have reassurance that adequate mitigation is arranged for any material detriment to the covenant for each new scheme, or section. Unless the bank obtains clearance for the arrangements made, the bank may remain at risk for subsequent action by tPR. Such action may require the bank to support the liabilities of other group companies. Applying for clearance may require further contributions from the bank over those felt necessary by the trustees.

There may be difficulty in unwinding any existing inter-company guarantees, including PPF guarantees. In particular, PPF guarantees are required to be evergreen and there are tight restrictions on when they can be removed. Removal, whilst complying with these restrictions, may require significant additional funding.

The IFoA believes there is a requirement for additional clarity in respect of scheme members who have service across the group. As an example, it is not clear what would be allowed in relation to "orphan" liabilities (i.e. liabilities for members whose employment was with companies which no

London Staple Inn Hall · High Holborn · London · WC1V 7QJ · **Tel:** +44 (0) 20 7632 2100 · **Fax:** +44 (0) 20 7632 2111
Edinburgh Maclaurin House · 18 Dublin Street · Edinburgh · EH1 3PP · **Tel:** +44 (0) 131 240 1300 · **Fax:** +44 (0) 131 240 1313
Oxford Napier House · 4 Worcester Street · Oxford · OX1 2AW · **Tel:** +44 (0) 1865 268 200 · **Fax:** +44 (0) 1865 268 211
Hong Kong 2202 Tower Two · Lippo Centre · 89 Queensway · Hong Kong · **Tel:** +11 (0) 852 2147 9418 · **Fax:** +11 (0) 852 2147 2497
www.actuaries.org.uk

longer participate), where the draft requirement removes responsibility from the bank for pension liabilities for other employers of the corporate group. It is inevitable that some members will have had service split between the ring-fenced bank and other group companies. The requirements will have to be sufficiently flexible to cater for this i.e. the bank will have to be allowed to have responsibility for all of the pension liability for a member who had some service with the bank, even if part of that member's pension derives from employment with another group company.

If you wish to contact the IFoA about this response, please contact Philip Doggart, Policy Manager, in the first instance. You may contact him on 0131 240 1319, or at Philip.Doggart@actuaries.org.uk.

Yours faithfully,

Martin Lowes
Chair, Pensions Consultations Sub-committee