UK Banking Regulation Addressed in Mansion House Speech

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On Thursday 12 June, the UK's Chancellor of the Exchequer, George Osborne, delivered a speech on the state of the British economy, as is customary at the Lord Mayor of London's annual dinner (known as the Mansion House Speech). In the wake of a number of high-profile investigations into the fixed income, commodity and currency markets, Mr. Osborne announced a number of proposals to strengthen UK banking regulation, most notably:

1. The Fair and Effective Markets Review

HM Treasury, the Bank of England and the Financial Conduct Authority will conduct a review of standards in the fixed income, currency and commodity markets (the "Review"). The Review will be led by Nemat "Minouche" Shafik, Deputy Governor for Markets and Banking at the Bank of England, with Martin Wheatley, CEO of the Financial Conduct Authority, and Charles Roxburgh, Director General of Financial Services at HM Treasury, as co-chairs. A group of around 12 to 15 senior market practitioners will provide input on the Review through a separate panel led by Elizabeth Corley, CEO of Allianz Global Investors Europe.

The Review will look at current trading practices, the scope of regulation, the impact of recent and forthcoming regulation and the implications for future supervision of firms and markets. It will consider issues including the drivers of behaviour in the markets (including incentives for individuals and firms) and how to bring currently unregulated markets (such as foreign exchange and precious metals) into the scope of regulation.

2. Extension of LIBOR Regulation

The Review will be tasked to identify a list of additional benchmarks that should be subject to UK regulation. On 2 April 2013, secondary legislation brought benchmark-related activities within the scope of regulation.[1] At the same time, the Financial Services Act 2012 came into effect creating a criminal offence of making false or misleading statements or creating a false or misleading impression in relation to benchmarks. To date, the only benchmark to which these provisions apply is LIBOR. However, amendments to the Financial Services and Markets Act 2000 make it possible for the government to bring additional benchmarks within the scope of regulation, and to extend the list of benchmarks to which the new criminal offence should apply.

It is expected that the government will consult on the full list of benchmarks to be covered by this autumn, and that the new regime will be in place by the end of the year.

3. Market Abuse Offences

The Chancellor announced his intention to introduce “tough new domestic criminal offences” for market abuse. Whilst he did not expand upon the nature of such offences, one can fairly assume that they would extend to those parts of the fixed income, commodity and currency markets not already covered by the current regime.

4. Extension of the Scope of the Senior Management Regime to Include Branches of Foreign Banks

In 2015, Part 4 of the Financial Services (Banking Reform) Act 2013 is expected to come into force. This piece of legislation will usher in profound changes to the way in which individuals, holding senior management positions at authorised firms, will be regulated. A principal purpose of the legislation is to allow the Regulator to attribute, with greater ease, individual responsibility for the failings at financial institutions. The legislation requires the top-tier management of banks to be designated as “Senior Management.” Individuals who are designated as Senior Management will be required to sign a “Statement of Responsibilities” setting out exactly what functions within the bank they are responsible for. Unless a senior manager can prove otherwise, the Regulator will be entitled to assume that they are liable for any regulatory failing which is found to have occurred in that part of the business for which they were responsible.

During the course of his speech, Mr. Osborne confirmed that the Senior Management regime will cover all banks that operate in the UK, including branches of foreign banks, which are not themselves authorised in the UK.

These announcements build on a series of reforms pursued by the current Government which have sought to address perceived weaknesses in the UK’s financial regulatory framework. The Chancellor has reasserted his intention to extend the scope of the regulated sector and to increase the accountability of senior management.

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[1] The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 (SI 2013/655).

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