



Unite the Union response to a consultation by HM Treasury: A new approach to financial regulation

This response is submitted by Unite the Union. Unite is the UK's largest trade union with 1.5 million members across the private and public sectors. The union's members work in a range of industries including financial services, manufacturing, print, media, construction, transport, local government, education, health and not for profit sectors.

Unite is the largest trade union in the finance sector representing some 150,000 workers in all grades and all occupations, not only in the major English and Scottish banks, but also in investment banks, the Bank of England, insurance companies, building societies, finance houses and business services companies.

Executive Summary

- Unite believes the review should consider a new approach to engagement with all stakeholders who have an interest in the success and sustainability of the industry;
- The role of Non-Executive Directors should include consumer and employee representation to align the interests of the business with those of stakeholders;
- Unite sees a role for trade unions and consumer group representation on the Consumer Protection and Markets Authority (CPMA) to address the democratic deficit;
- Unite would wish to see reforms around the issue of financial exclusion and welcomes the recognition of this issue in the consultation paper;
- Unite has concerns regarding the Government's commitment to increase diversity in the sector given the recent sale of RBS branches to Grupo Santander;
- Unite believes that there must be an acknowledgement of the social responsibility the sector has beyond the interests of shareholders and a clearer understanding of its role in serving the needs of society as well as the wider economy.

Introduction

1. Unite welcomes HM Treasury's proposals to consider a new approach to financial regulation which will ensure "a credible and appropriately intrusive approach to regulation and supervision". However Unite believes the review should also consider a new approach to engagement with all stakeholders who have an interest in the success and sustainability of the industry. This should include a reassessment of the sales culture and aggressive business practices which are evident in some parts of the sector.
2. This response focuses on issues of corporate governance, increasing representation in the decision making process within finance sector institutions, financial inclusion and issues surrounding increasing diversity within the sector.
3. Unite recognises that the financial services sector does make a valuable contribution to the UK economy and its success and sustainability is dependent on the trust of businesses and customers.
4. Unite recognises that regulation requires a review. The regulatory system in place prior to the crisis failed to recognise the potential consequences associated with excessive risk and short term returns. A new approach is required which will deliver a more robust checks and balances function by ensuring all stakeholders are involved in the process. This "new approach" should include trade unions and consumer group representatives on key decision making boards and committees at the highest possible level.
5. In a speech at Mansion House in 2009 Lord Adair Turner, Chairman of the FSA said "parts of the financial services industries (sic) need to reflect deeply on their role in the economy, and to recommit to a focus on their essential and economic functions, if they are to regain public trust."¹
6. While early signs of a recovery within the sector are beginning to emerge, the impact of the crisis on workers in the sector appears to have been overlooked by the industry itself.
7. The workforce appears to be regarded as a dispensable commodity with many workers having been discarded by their employers under the auspices of cost cutting measures. According to the Office for National Statistics, since March 2009 to March 2010, 90,000 finance related jobs have been lost.² These decisions affect livelihoods, careers and futures for workers in the sector who have been damaged irrevocably by a crisis brought about by city dealers, failures by regulators and the actions of excessive risk takers within the boards of many large finance sector companies.
8. Unite believes that a full workplace impact assessment should be carried out by businesses when large scale job losses are proposed in order to identify suitable alternative employment opportunities wherever possible and

¹ http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2009/0922_at.shtml

² ONS Economic and Labour Market Review Sept 2010 Edition

to take account of local, regional and national economic implications. Businesses should be prepared to engage with the public sector to identify redeployment possibilities.

9. In an industry where some Chief Executives earn 108 times the basic pay of those in the lowest grade³, it is time to bring fairness and some humility upon the industry. Sir Philip Hampton, chairman of RBS stated recently that “regulation rather than self-imposed restraint is the only way to reduce City bonuses”.⁴
10. Unite’s response to the Treasury Committee’s call for evidence on the Banking crisis in January 2009 stated that:

“Financial regulation should not be seen in isolation. Most fundamentally the objective of a stable financial system must be re-orientated to serve the real economy, fund long term investment, provide returns and with wage increases reflecting productivity growth. “

11. It went on to say:

“The more traditional relationship between bank and lender, consumer and company was a better model. A higher share of national wealth should be returned to workers as wages reducing the need for such high levels of personal debt. The financial system should be democratically accountable to wider social objectives. “

12. The sector must be prepared to adopt changes to the existing structures of financial regulation and corporate governance that will see a radical shift to a more equitable distribution of a company’s wealth and a review of the existing business model to one which considers ethical principles as well as profit. Only then will the sector be in a position to regain its integrity and deliver a responsive banking system which is sustainable and works in the interests of society more widely.

Corporate Governance

13. Unite responded to the HM Treasury review of corporate governance in October 2009 in which it stated that

“NEDs have a duty to scrutinise on behalf of the wider public and shareholders however they are often provided, through the remuneration system, with access to share option schemes in the company. This may therefore compromise their independence, as any criticism of decisions made by the board, could impact on their pay packages.”

³Stephen Hester CEO RBS - basic pay in 2009 was £1.2 million. The basic pay of the lowest grade in RBS is £11,144 (equates to 108 times highest to lowest pay.)

⁴ Guardian 5 October 2010 pg 22

14. The function of Non-Executive Directors (NEDs) is an important one. However it is vital that this function should provide independent oversight which is robust. Unite would therefore wish to see an increase in NEDs who are able and willing to provide unbiased guidance and direction which will reflect the diverse interests of all stakeholders. Remuneration for this role should be reviewed.
15. Unite believes that independent NEDs should include consumer and employee representation to align the interests of the business with those of stakeholders. The present system which would appear to recruit NEDs from a narrow group of individuals from within the sector itself can create a situation where albeit informed individuals may be driven to support self interest and this can dictate the decision making process away from the wider interests of society.
16. Unite believes that to promote good governance which takes account of the role financial companies play in the wider economy, a number of seats should be reserved for public interest representation on internal committees such as remuneration committees.
17. Ensuring public interest involvement will further allow for independent scrutiny and provide legitimacy and objectivity to the policymaking and decision-making process. A report commissioned by Unite and carried out by the Financial Inclusion Centre identified:

*“Too few independent, well-resourced public interest representatives at the heart of the regulatory system whether at international, European Union or UK national level.”*⁵

Representation

18. Unite sees a fundamental failing in the proposals outlined in that there remains an over-representation of shareholder interests over public, employee or wider social interests in the decision-making process. Retaining the composition of such groups is unlikely to deliver independent oversight or provide checks and balances to improve corporate governance structures.
19. Unite commissioned the Financial Inclusion Centre to look at the UK financial services sector and to prepare a report detailing the areas that required overhaul. The Report highlighted the need for radical reform including the need for the creation of utility banks with public interest objectives.
20. The Report identified that a serious democratic deficit existed in the UK's financial system with an over-representation of shareholder interests over public, employee or wider social interests on many of the board and committees of financial institutions in the UK and therefore in the decision-making process.

⁵ Financial Inclusion Centre Report: Reforming Financial Systems 2009 (page 10)

21. With regards specifically to point 4.12 in the consultation paper, Unite sees a role for trade unions and consumer group representation on the Consumer Protection and Markets Authority (CPMA) to address the democratic deficit. While there may be a call for such engagement to take place at the statutory panel level Unite would be disappointed that full engagement with key stakeholders would only take place on a consultative basis and not at a decision-making level.
22. Unite recognises that there were failings in the previous system which has severely damaged the sector. The sector has to be seen to be reassuring consumers, re-engaging the workforce and refocusing on putting things right.
23. Unite welcomes the proposed transparency of the CPMA and the expectations proposed in point 4.32 that board members should have the necessary skills and background to bring the viewpoints of all relevant stakeholders to the board. Unite would welcome the opportunity for trade unions to be represented on this board in order to represent the interests of its members at this strategic level.

Financial inclusion

24. Unite would also wish to see reforms around the issue of financial exclusion and welcomes the recognition of this issue in the consultation paper.
25. There are now increasing numbers of individuals who through over-indebtedness have found themselves financially excluded when trying to access new financial products, with increased number of people filing for bankruptcy in the last two years.
26. Statistics from the UK Office for National Statistics found that in Q1 2010 there were 16,348 individual bankruptcy petitions made by debtors (the person who owes the debt) a 20% increase on the previous quarter. However this is a decrease of 3% on the same quarter of 2009.⁶
27. In a discussion forum of eminent thinkers for Consumer Focus in June 2010, Brian Pomeroy CBE, Chair, Financial Inclusion Task Force stated that:

“Not having a bank account has many disadvantages. Without one, you often cannot get a job since employers do not have to pay their staff in any other way; and unbanked people who receive cheques from their employers can pay substantial additional fees to have them cashed. Not having a bank account means your money is less safe and more vulnerable to theft or loss. A bank account also makes it possible to get discounts on everyday necessities by using efficient payment methods. Suppliers of gas, electricity, water and telecommunications, who receive money electronically - for example by direct debit – have considerably lower costs than if they

⁶ <http://www.justice.gov.uk/publications/docs/insolvency-bulletin2010-q1.pdf>

have to handle cheques or cash. Not only does it lower their administration costs, it also reduces the likelihood of missed payments and default, so utilities offer discounts to people who pay in this way. But only if you have a bank account can you take advantage of them.”⁷

28. Although the Post Office does offer a basic bank account – the Post Office Card Account (POCA) – this was intended as a means of paying welfare benefits electronically and does not have the functionality of a traditional bank account. Credit unions also offer access to bank accounts and loans; however they remain very small players and are distributed unevenly across the country.

29. Unite has given its support to the Better Banking Campaign which calls for a reform of the banking system which will introduce measures including:

- Requiring banks to publicly disclose where they are lending and providing services – how much and to whom – including in respect of small businesses;
- With this data, providing incentives and obligations for banks to serve social responsibilities, along the lines of the US Community Reinvestment Act;
- Capping the amount that can be legally charged for credit;
- Reinvesting 1% of banks’ profits for public benefit.

Diversity

30. Unite believes that a fundamental re-evaluation of banking is necessary to address issues of financial exclusion and a reassessment of financial markets to take account of societies needs with regards to financial services. Unite believes that a diverse finance sector is the best model to take account of the different needs within society. This should include the expansion of credit unions, cooperatives, mutuals and building societies to provide services which can compete with the large retail banks who dominate the UK high street.

31. The UK’s top six banks account for 88 per cent of retail deposits while in Germany and the US the figures are 68 per cent and 35 per cent respectively. Britain’s financial sector is dominated by a small number of very large universal banks.⁸

32. Unite therefore welcomed the Coalition Government’s statement contained within the Coalition Agreement that “we agree to bring forward detailed proposals to foster diversity, promote mutuals and create a more competitive banking industry.”⁹ However Unite has concerns regarding the Government’s commitment to increase diversity.

⁷Consumer Focus: Rethinking Financial Services Focus on Finance June 2010

⁸ FT 26 September 2010

⁹ Coalition Agreement - http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf

33. The recent sale of RBS branches to Grupo Santander will do little to increase diversity. According to the company's website Santander is already the 4th largest bank in the world ¹⁰ and controls a significant proportion of UK high street banking ¹¹ which has narrowed the number of providers and is likely to limit the choice of products and services on offer to consumers.
34. Consolidation is increasingly becoming a feature of the UK finance sector and Unite believes that future takeover and mergers must be fully investigated by the Competition Commission and the Office of Fair Trading to ensure that such business decisions are in the best interests of all relevant stakeholders including customers, the workforce and the public generally.
35. The sector has much to do to regain trust, redeem lost confidence and rebuild reputation. To do this Unite believes that there must be an acknowledgement of the social responsibility the sector has beyond the interests of shareholders and a clearer understanding of its role in serving the needs of society as well as the wider economy.
36. The threat that banks and other firms in the sector will simply move out of the UK if changes to the regulatory regime, corporate governance or even the remuneration regime become too burdensome, should not be a reason to do nothing but rather should provide the stimulus to find a new approach to the way the finance sector conducts business which supports society's needs and contributes positively to the economy.

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¹⁰ www.santander.com – about the group

¹¹ Grupo Santander already owns Abbey, Alliance and Leicester and Bradford and Bingley.