

EXPLANATORY MEMORANDUM TO

THE BRADFORD & BINGLEY PLC COMPENSATION SCHEME ORDER 2008 2008 No.

1. This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 The Bradford & Bingley plc Compensation Scheme Order 2008 ("the Order") provides for the determination of any compensation payable by the Treasury following the taking into public ownership of Bradford & Bingley plc ("Bradford & Bingley") under the Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (SI 2008/2546) ("the Transfer Order") and makes various connected provisions.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Background**

4.1 The Treasury is required by section 5 of the Banking (Special Provisions) Act 2008 ("the Act") to make an order providing for a scheme for determining the amount of any compensation payable to holders of securities transferred, and to those whose subscription rights are extinguished, by an order under the Act. An order must be made within 3 months of the making of the transfer or extinguishment order.

4.2 The Order provides a scheme for the determination of the amount of any compensation payable by the Treasury to persons who held shares in Bradford & Bingley before the transfer, or whose subscription rights or rights arising out of the modification of certain instruments were extinguished. Provision is made for the appointment by the Treasury of an independent valuer, the reconsideration by the valuer of an initial assessment and the review of the valuer's determination by the Financial Services and Markets Tribunal.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

6.1 The Financial Services Secretary to the Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Bradford & Bingley plc Compensation Scheme Order 2008 are compatible with the Convention rights.

7. Policy background

7.1 In the interests of maintaining the financial stability of the UK financial system and to protect retail depositors, and on the advice of the FSA and the Bank of England, the Government acted on 29 September to take Bradford & Bingley plc into public ownership by the Transfer Order made under the Act. Its retail deposit business along with its branch network was immediately transferred to Abbey National plc. The other assets and liabilities of Bradford & Bingley, principally comprising its mortgage book, personal loan book, headquarters and relevant staff, treasury assets and its wholesale liabilities, remained in public ownership. The transfer of the retail deposit book has been backed by cash from the Treasury and the Financial Services Compensation Scheme. The Treasury and the Financial Services Compensation Scheme will recover payments in the wind-down of the remainder of Bradford & Bingley plc.

7.2 As set out in the the Banking (Special Provisions) Act 2008, the Treasury is required to make a compensation order to determine the amount of any compensation payable to former shareholders of Bradford & Bingley within 3 months of the Transfer Order.

7.3 The Order enables the amount of any compensation payable to former shareholders of Bradford & Bingley by the Treasury as a result of the Transfer Order to be determined by an independent valuer, makes provision for the assessment of compensation by the valuer and makes provision for a right of appeal against the decision of the valuer to the Financial Services and Markets Tribunal.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

9.1 Eamonn White at HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. Tel: 0207 270 5274 or e-mail: eamonn.white@hm-treasury.x.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Hm Treasury	Title: Impact Assessment of the Bradford & Bingley Compensation Scheme Order 2008	
Stage:	Version: 1	Date: 1/12/2008
Related Publications: The Banking (Special Provisions) Bill 2008, the Chancellor's statement on Bradford & Bingley, 29 September 2008 HM Treasury website		

Available to view or download at:

<http://www.hm-treasury.gov.uk>

Contact for enquiries:

Telephone:

What is the problem under consideration? Why is government intervention necessary?

On 29 September Bradford & Bingley plc was taken into public ownership by order made under the Banking (Special Provisions) Act 2008. The Treasury is required by section 5 of the Act to make an order providing for the determination of the amount of any compensation payable to holders of securities transferred and to those whose subscription rights are extinguished by an order under the Act. An order must be made within 3 months of the making of the transfer or extinguishment order.

What are the policy objectives and the intended effects?

Consistent with the Banking (Special Provisions) Act 2008, made to support financial stability, to protect depositors' money; and to protect the interest of taxpayers, that an independent valuer is appointed to determine the amount of any compensation payable to former shareholders of Bradford & Bingley by the Treasury as a result of the Transfer Order.

What policy options have been considered? Please justify any preferred option.

The Government has considered other options, however, the Chancellor has decided to appoint an independent valuer to value the business immediately before the point of transfer, as this is the only approach which ensures that both shareholders and taxpayers are treated fairly on the basis of an independent assessment of any shareholder value disregarding (as section 5(4) of the Act requires) any state financial support.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The independent valuer will decide the procedure for conducting the valuation and publish his or her decision as part of an assessment notice in due course.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



..... Date: 1 December 2008