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Russell Waterman

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Our refs: IRU/9/433

Email/19535/2009

29th May 2009

Dear Mr. Waterman,

FREEDOM OF INFORMATION ACT REQUEST:
FINANCIAL SERVICES COMPENSATION SCHEME (FSCS)

Thank you for your enquiry dated 8th May 2009 following our reply of the same date to your previous enquiry on this subject. You have clarified your earlier question by indicating that you are seeking information showing whether the £50k available under the FSCS is guaranteed in law. In particular you ask:

... If the Government has made clear that it stands behind the FSCS as you say above, where has the government clearly guaranteed this in writing with legal force ? ...

2. The Government's position was set out in detail by the Economic Secretary to the Treasury (Mr Ian Pearson MP) during the Commons Committee stage of the proceedings on the Banking Bill on the afternoon of 23 October 2008. The debate was in the 4th sitting of the Public Bill Committee on the Banking Bill in the 2007-08 session. The full text can be found on the Parliament website (www.Parliament.uk) in the section on clause 159 of the Banking Bill at column 116 to column 120. The Economic Secretary said:

"The Government stand behind the FSCS so that it can be relied upon to play its role in meeting the claims that arise. There can be no question of allowing the scheme to run out of funds. That is why we have made it clear that we would ensure that the FSCS has access to immediate liquidity through borrowing from the public sector. That has already been done by ensuring that finance was available to the scheme to enable it to contribute to the costs of transferring accounts from Bradford & Bingley to Abbey and from Heritable and Kaupthing Singer and Friedlander to ING. Those loans have been made by the Bank of England and will be refinanced by the Treasury in due course."

3. The FSCS has a number of sources of funds including the ability to raise levies from the financial services industry and borrowing. The Economic Secretary's statement makes clear that the Government is always prepared to make loans to the FSCS if it is necessary to do so. The legal power for the FSCS to raise levies is provided by the rules made by the Financial Services Authority (FSA) under section 213(3)(b) of the Financial Services and Markets Act 2000 (FSMA). If appropriate, the Treasury could also make regulations under section 223B(4)(b) FSMA to allow the



FSCS to raise levies for meeting expenses in connection with loans from the National Loans Fund arranged by the Treasury under section 223B(2) FSMA.

4. You have described your enquiries as, respectively, a request and a review under the Freedom of Information Act 2000. However your latest correspondence clarifies the intention behind your first request and seeks further information rather than asking us to re-examine our handling of your original enquiry. Therefore we have treated this as a further enquiry.

5. More generally, you have asked questions in your correspondence, rather than made requests for recorded information. Your rights under the Act are to recorded information. In the spirit of the Act, we have sought to identify recorded information that would address the questions you have raised. The Information Commissioner has published some advice for requesters, which highlights the difficulties associated with enquiries of this sort, and includes pointers on how to frame a request for the best prospects of success; a link to this is below:

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/practical_application/fop100_how_to_make_a_request_v1.pdf.

6. I hope this clarifies matters for you fully but if you still have any queries about this letter, please contact us at the email account given in the header to this letter. It would help us, if you could remember to quote the IRU reference number (also in the header) in any future communications.

Yours sincerely,

Information Rights Unit
On behalf of HM Treasury

Your right to complain under the Freedom of Information Act 2000

If you are not happy with this reply, you may request a review by writing to HM Treasury, Information Rights Unit, 2/S2, 1 Horse Guards Road, London SW1A 2HQ. Email foi.responses@hm-treasury.gov.uk. Any review request must be made within 2 months of the date of this letter. It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Treasury. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.