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National and international banking levies: 'harmonised network' or unity in diversity?

The proposed UK bank levy represents but one of a burgeoning category of worldwide initiatives introduced following the financial crisis. Adam Blakemore, Oliver Iliffe and Kieran Clancy explore this challenging new landscape.

A consultation document published on 13 July 2010 by HM Treasury (the 'Consultation Document') has provided further detail on the scope of the bank levy (the 'Levy') which was proposed in the UK Emergency Budget on 22 June 2010. The genesis of the Levy as described in the Consultation Document originates from the objective of the Government to encourage the UK banking sector to 'move away from riskier funding models'[1], reduce systemic risk in the sector and increase institutional resilience. Allied to these objectives is the stated intention to ensure that banks make a 'fair contribution in respect of the potential risks they pose to the UK financial system and the wider economy'.[2] This article considers the main features of the proposed Levy, analyses how closely the Levy complements the other regulatory initiatives introduced as a response to the financial crisis and reviews the Levy in the context of other proposals for national, and international, banking levies and resolution funds.

The main features of the Levy

The Levy will be introduced from 1 January 2011 and will apply to:

- the global consolidated balance sheets prepared under IFRS of UK banking groups and building societies;
- the aggregated UK subsidiary and branch balance sheets of foreign banks and banking groups operating in the UK; and
- the balance sheet of UK banks in non-banking groups.

Owing to the application of the Levy to bank consolidated balance sheets, questions may well arise concerning the extent to which ongoing accounting reform, such as the IASB's project to replace IAS 39, may affect the valuation of liabilities under the Levy. Banking institutions and groups will only be liable for the Levy where their relevant aggregate liabilities which are subject to the Levy amount to £20bn or more, a move calculated to restrict the application of the Levy to larger banking institutions only. The Consultation Document confirms that the calculation of branch liabilities and Tier 1 capital for the purposes of the Levy will be based upon the existing capital attribution methodology already employed for corporation tax purposes. However, there remain a number of questions regarding whether calculation of branch liabilities under the existing capital attribution methodology will most aptly reflect the policy aim of the Levy in focusing on the funding profile of the overall bank business and risk profile (rather than just the risks located in the branch itself). The Consultation Document raises a number of questions in this area, focusing on the critical calculation of which liabilities should be attributed (branch, or by reference to the bank entity as a whole) and the basis on which attribution should be made (according to the risk weighted assets or total assets). It is anticipated that some obvious mitigation strategies will be headed off in the detailed drafting of the Levy, thereby precluding the attribution of solely excluded liabilities to a UK branch and attribution of non-excluded (taxable) liabilities to a home state which is not imposing a balance sheet levy.

The Consultation Document proposes that the definition of 'bank' for the purposes of the Levy should follow the definition of 'bank' used for bank payroll tax ('BPT') purposes in para 43, Sched 3, Finance Act 2010. The Government has also proposed to use the BPT definition of 'banking group', albeit with suitable amendments to reflect the fact that the Levy is based on accounting group concepts and not the definitions of tax grouping used in BPT. Some of the tensions and difficulties experienced with BPT relating to which institutions fell within that tax may therefore be translated into the Levy, although the £20bn threshold for banks should alleviate many of the problems which relate to certain funds falling within the definition of a 'bank'. It is also perhaps surprising that the definition of 'bank' used for BPT purposes, a tax focused on policy objectives relating to individual bonus remuneration, is to be employed for a banking levy which aims to encourage increases in the quality of bank capital and reduce systemic risk in the UK banking sector. While using the BPT definition of 'bank' is convenient, it is less certain how well that definition establishes a perimeter for the Levy which corresponds to the systemic risks intended to be addressed.

As described in the Emergency Budget on 22 June 2010, the Levy will be based on the 'total liabilities' of a bank, excluding:

- Tier 1 capital, including both equity and hybrid debt performing as equity and subordinated to the level of ordinary shares of the bank;
- 'insured retail deposits', which the Consultation Document suggests will cover a statutory or state-run guarantee or insurance scheme;
- repo liabilities secured on sovereign and supra-national debt; and
- policy holder liabilities of retail insurance business with banking groups.

Some questions will be inevitable regarding the definitions of retail funding and deposit insurance, and there will be challenges to align the scope of liabilities exempted from the Levy with equivalent provisions in other banking levies to be introduced by France, Germany, the United States and other jurisdictions. The excluded liabilities identified all serve to reinforce the objectives of the Levy in encouraging banks to strengthen their capital bases and promoting certain forms of funding which are perceived to be safer and 'relatively stable'[3] bearing in mind the lessons of the financial crisis. Derivatives will be included on a net liability basis, although the Consultation Document acknowledges that this is complicated by differing arrangements for netting and accounting practices in the EU and the US owing to IFRS and UK GAAP applying a narrower provision for netting of derivatives than US GAAP.

The Levy will be imposed annually at a rate of 0.07%. HM Treasury estimates that this will raise around £2.5bn annually. However, in 2011, a lower rate of 0.04% will be set. There will be a reduced rate for longer-maturity wholesale funding (with more than one year remaining until maturity) to be set at 0.02% rising to 0.035% after 2011. This reflects the stated policy objective of encouraging the UK banking sector towards longer-term funding and away from short-term wholesale liabilities. There is no indication that the Levy is being introduced on a temporary basis (although the Consultation Document notes that the Levy will be reviewed in 2013 to establish its costs and benefits) and there is no limitation on the amount to be raised under the Levy in comparison to the net direct cost of financial support provided by the HM Treasury to the UK banking sector. The Consultation Document also makes it clear that there is no intention to utilise the revenue generated by the Levy as a bail-out or insurance fund against future bank failures in the UK banking sector.[4]

The expense of wholesale funding relative to Tier 1 capital, insured retail deposits and sovereign debt repos will be increased on an after-tax basis owing to the Levy not being deductible for UK corporation tax purposes. A 'targeted' anti-avoidance rule will also be introduced to prevent banks mitigating their liability to the Levy.

The processing, administration and collection of the Levy will be the responsibility of HMRC, with banking institutions self-assessing their liability. Payment of the Levy will be the joint and several liability of all members of a banking group, with a single group member being appointed as a 'responsible company' for Levy administration purposes.

Key issues

A number of key issues relating to the introduction of the Levy arise from the Consultation Document, in particular the risk that the imposition of the Levy may lead to double (or multiple) taxation. The Consultation Document acknowledges that liabilities under the Levy will not constitute 'tax' for the purposes of the UK's double taxation treaties, raising the risk that a foreign jurisdiction might not give relief under an existing treaty for the amount of the Levy payable by the UK branch of a bank in that foreign jurisdiction. This problem is also relevant to any bank balance sheet levies imposed by foreign jurisdictions which are not assessed on income or gains and which would be borne by the foreign subsidiaries and branches of UK banks. In the event that such bank levies are not eligible for foreign tax credits or relief under double tax treaties or domestic legislation, the cost to multinational financial institutions and banking groups may well be very substantial. An example of this would be where the Levy extends to a UK branch of an EU incorporated bank, but in the EU home jurisdiction of incorporation, the domestic jurisdictional levy will apply to the bank on a worldwide basis.

Resolving these issues will clearly be a priority for the Government[5], not least because press reports of banks contemplating relocating their headquarters, and rumoured capital flight, have already started to emerge in the UK media.[6] While the Levy is just one of a large number of taxation and commercial aspects a bank would consider in reviewing the location of a headquarters in the UK, the Government will be aware of the particular sensitivities relating to the taxation of banks in the wake of other Government initiatives including the Code of Practice on Taxation for Banks, the proposals for a general anti-avoidance rule and other legislative initiatives regarding financial instruments.[7] Whether the combined effect of such initiatives and the Levy will be sufficient for UK-headquartered banks to seriously consider a corporate inversion and an exit from the UK marketplace remains to be seen, and will no doubt be closely monitored by the Government and HM Treasury. It is possible that the banks with the greatest incentive to re-domicile will be those headquartered in the UK but with very substantial operations in jurisdictions which do not impose a similar balance sheet-based banking levy. Such banks would face the imposition of the Levy on a worldwide basis, whereas re-domiciliation to a jurisdiction where no banking levy is charged would reduce the costs of the Levy to the charge on UK branch activities alone.

The international context of the Levy

Evaluating the characteristics of the Levy also needs to be undertaken in the context of other worldwide legislative and regulatory initiatives designed to either recover the costs of financial support or avert and reduce the impact of future financial crises. This requires consideration of developments in the US and Europe of banking taxes, as well as of the approach the IMF and the G20 have taken in this area.

A. US Financial Crisis Responsibility Fee

The US Government proposed a Financial Crisis Responsibility Fee (the 'Fee') on 14 January 2010 to be raised from around 20 of the largest financial institutions operating in the US. The proposal is currently under legislative review, but if implemented, is expected to raise $90bn to $117bn over a period of at least 10 years, but possibly longer in order to recover the costs of the US Government's Troubled Asset Relief Program (TARP). To date, the proposals for the Fee have not been enacted, although a similar tax was included in one version of the Dodd-Frank financial reform bill without being included in the final enacted legislation. The current legislative future of the Fee therefore appears uncertain, although it would be surprising if the US were not to introduce the Fee or a similar measure, given the recommendations of the IMF, the G20 and actions of other jurisdictions with strong financial sectors.

The genesis of the proposals lies in the Emergency Economic Stabilization Act of 2008 which included a requirement that the President put forward a plan 'that recoups from the financial industry an amount equal to the shortfall in order to ensure that the Troubled Asset Relief Program does not add to the deficit or national debt'.[8] The focus of the Fee is clearly on reparation for financial support, one stated goal being 'to require the largest and most highly leveraged Wall Street firms to pay back taxpayers for the extraordinary assistance provided' by TARP and other governmental programmes.[9]

Covered institutions include US-based bank holding companies, thrift holding companies, certain broker dealers, as well as companies that control insured depositories and certain broker dealers, with assets over $50bn. Covered firms would be subject to an annual levy of 0.15% on total liabilities, excluding Federal Deposit Insurance Corporation deposits, and insurance policy reserves. The Fee would cover the liabilities of all firms in the above categories organised in the US, and would include US subsidiaries of foreign firms. In this regard, operations of US subsidiaries of foreign firms would be consolidated for the purposes of the $50bn threshold and administration of the Fee. For those firms headquartered in the US, the Fee would cover all liabilities globally. Significantly, the framework includes derivatives and off-balance sheet items not otherwise reflected under conventional accounting, with the aim of catching high-risk banking activities that pose a particular threat to financial stability.

B. European bank funds and levies

Sweden, Germany, France and Hungary have also proposed or introduced bank levies following the financial crisis, effectively forestalling the idea of taking a common EU-wide approach. Sweden's Act on Government Support to Credit Institutions enacted in 2008 establishes a fund to equal approximately 2.5% of Sweden's GDP within 15 years, which would in turn be available to the Swedish National Debt Office in the event of economic distress. While the fund was capitalised by an initial SEK15bn from the Swedish Government, the Act provides for additional payments including a 'stability fee' levied from certain financial institutions at a rate of 0.036%, being levied on a banking institution's liabilities (excluding equity capital and some classes of junior debt securities) according to an approved balance sheet.

On 25 August 2010 the German government issued the draft Credit Institute Restructuring Act (Gesetz zur Reorganisation von Kreditinstituten) (the 'Restructuring Act'), intended to enter into force in 2011. The Restructuring Act specifies procedures to follow when restructuring or liquidating distressed credit institutions of systemic importance. Under the Restructuring Act, the cost of managing future bank crises is switched to lenders, with all credit institutions paying a levy into a restructuring fund. Covered institutions will include ones that hold both a banking licence and are subject to the Ordinance on Accounting of Credit Institutions (Kreditinstituts-Rechnungslegungsverordnung). The levy will be permanent and will be assessed by reference to a banking institution's balance sheet liabilities, excluding capital and deposits, and its inter-connection to other participants in the financial market. The levy is to be paid into a designated stability fund which will be used, in turn, to finance a special resolution regime for systemically important banks. These include subsidiaries of foreign credit institutions and branches of foreign credit institutions domiciled outside the EEA.[10] As currently drafted, the Restructuring Act would not apply to branches of foreign credit institutions operating under an EU passport under s53b of the German Banking Act. These proposals augment measures introduced on 31 March 2010 when the German government introduced provisions requiring German banks to contribute to a bailout fund, and to implement restructuring strategies which allow credit institutions of systemic importance to be liquidated without putting the wider financial system at risk.

Proposals to introduce a banking levy were made by the French Government on 22 June 2010 in tandem with the announcement of the Levy, and more details are expected to be provided in the French Budget in September 2010.[11] Unlike proposals in Germany and Sweden, which more closely reflect the proposals of the EU Commission (discussed below), the French levy seems unlikely to dedicate funds raised to future bank resolutions. The levy also looks set to be more narrowly focused than its German and UK equivalents, may be tax deductible and will raise substantially less in pure revenue terms.[12]

C. European Commission developments

The proposals for the Levy can also be distinguished from current EU proposals. A communication from the EU Commission, EU Council and European Central Bank on 26 May 2010 was strongly supportive of the establishment of *ex ante* 'bank resolution funds', funded by a levy to be raised on banks, and to be used to facilitate the resolution of failing banks in an orderly manner and timeframe while avoiding systemic damage to the financial sector.[13] A bank resolution fund, as described by the EU Commission, would comprise national funds to be funded by banks, the task of which would be to contribute to financing the orderly resolution of distressed financial entities without effecting a 'bail-out' of such entities. Such a bank resolution fund would not be used to recapitalise a bank, but could, for example, finance a bridge bank to allow for continuation of an insolvent operation, finance a transfer of assets and liabilities from a distressed institution, or facilitate and finance the bifurcation of an ailing institution into a 'good' and 'bad' bank. In achieving these aims, the EU Commission anticipates that bank resolution funds will be able to pre-empt interventions by national governments. The EU Commission appears to view 'resolution funds' as complementing the establishment of a new crisis management framework at an EU level to facilitate orderly bank resolutions and minimise associated costs to tax payers. In promoting the concept of 'resolution funds', the EU Commission relegated measures to recover public funds committed during the financial crisis to stabilise banks, and measures to tackle excessive risk taking, to merely a 'parallel' initiative alongside the introduction of resolution funds.[14]

In this context, the EU Commission has considered that the establishment of bank resolution funds is one component of a portfolio of measures which ought to be taken to strengthen the European financial system, alongside the strengthening of capital requirements, reform of regulation and supervising the architecture and development of deposit guarantee schemes. Nevertheless, the possibility that the establishment of bank resolution funds will be included in the framework for crisis management to be announced by the EU Commission in October 2010 adds to an already complex fiscal landscape of proposed and enacted national bank levies designed, variously, to seek reparation for the costs of governmental support to the financial system or to provide corrective taxation as a tool of financial sector prudential policy.

It will be interesting to study in the forthcoming months whether the EU Commission's aspiration of bank resolution funds will be translated into reality. To date, only Germany and Sweden have made arrangements or proposals for national funds which could be construed as being in accordance with the EU Commission's stated objectives. The UK declined to structure the Levy in this way. Whereas the policy objective of an *ex ante* bank resolution fund, as articulated by the EU Commission, is to facilitate the resolution of a failing bank to avoid systemic contagion, the stated policy objectives of the Levy are focused more on crisis prevention, increasing financial sector resilience and modifying bank behaviour away from 'riskier funding'.[15]

It is particularly telling that the Consultation Document includes the statement that: '[t]he Government does not propose to establish a resolution fund' and that HM Treasury have stated that the Levy 'is not an insurance against failure or a fund for future resolution'.[16] The amount of revenue projected to be raised by the Levy exceeds that of other proposed EU bank levies by a significant amount. Given the UK Government's focus on the UK Banking sector paying 'an appropriate contribution' to the Exchequer, it seems clear that revenue raising by itself forms a material component of the objectives of the Levy, in contrast to the hypothecation of a resolution fund's receipts as contemplated by the EU.[17]

D. The International Monetary Fund

It is useful to compare the proposals for the Levy against the indicators used by the IMF in their final report on banking levies and resolution funds published in June 2010 and referenced in the Consultation Document.[18] The IMF proposed that any levy should achieve the following:

- ensure that the financial sector meets the direct fiscal cost of any future support;
- make failures less likely and less damaging, most importantly by facilitating an effective resolution scheme;
- be reasonably easy to implement, including the degree of international coordination required;
- enable, to the extent desired, an additional fiscal contribution from the financial sector to recognise that the costs to countries of crises exceed the fiscal cost of direct support; and
- address existing tax distortions at odds with financial stability concerns.

It is arguable that the Levy does not adequately address some or all of these issues, not least because the Levy does not ensure that the costs of future crises will be met by the financial sector. One risk, as the IMF noted in the report mentioned above, is that where no resolution fund is created and a bank balance sheet levy accrues into general revenue, there is a 'risk [that] receipts [are] spent rather than used to reduce government debt'.[19] The IMF noted that this would be particularly pertinent where 'fiscal policy is focused on deficit or gross debt targets remain unchanged when the levy is collected', which is likely to be the case in the UK. HM Treasury's decision to deviate from the IMF guidelines, unlike Germany and (arguably) the US, and to link the tax directly to past and future bank failures, is likely to mean that the Levy may continue to be met with cynicism from some quarters as being a substitute for general revenue raising, offsetting reductions in headline corporation tax rates for the wider UK corporate sector.

The unclear role of balance sheet-based bank levies

The intention of the Government is that the introduction of the Levy is undertaken 'alongside the wider financial reform aimed at increasing the resilience of the financial sector'.[20]

One of the criticisms which was levelled at BPT was that it operated almost as a substitute for effective fiscal and regulatory policy, being a blunt tool aimed at preventing the payment of bank bonuses without much coordination with the FSA Remuneration Code[21] and uninfluenced by the legislative developments in the Financial Services Bill 2010. Although BPT was motivated by an intention to modify current and future behaviour in the UK banking sector,[22] the tax does not appear to have been particularly successful in permanently sterilising the UK banking sector's 'bonus culture', at least if prominent media reports which point to continued, and contemplated, payment of large bonuses are to be accepted.[23] Indeed, even the former Chancellor of the Exchequer responsible for the introduction of BPT now appears to regard the tax as having been unsuccessful[24], although it remains to be seen whether the new Labour Party leadership or even the

Coalition Government might seek to repeat the experiment.

By contrast, the proposals for the Levy evidence an intention of the Government to use the imposition of corrective taxes as a complement to financial sector prudential policy. In this regard, the focus in the Levy on propelling banks towards 'safer' and less 'risky' funding is intended to complement both a micro-prudential role (in addressing an institution's risk) and a macro-prudential role (in addressing systemic risk). In these areas, parallels can be drawn between the Levy and the FSA Remuneration Code, insofar as the latter has stressed the importance of ensuring that 'remuneration policy must be consistent with effective risk management'.[25] The origin of both measures lies in a transnational desire to impose lower risk practices on financial institutions, and avoid systemic risk in the financial system as a result.

Perhaps less clear is the role of the Levy in providing support for the wide-ranging regulatory initiatives proposed in the Turner Review.[26] In this regard the Levy focuses on risk relating to balance sheet liabilities, as opposed to risk relating to the quality of assets. It is possible that the latter approach would have surrendered too much power to bank regulators (in defining and determining risk-weighting schemes) and accounting boards (in defining on- and off-balance sheet assets) and away from a Government which may have, at the very least, a subsidiary interest in being able to modify unilaterally the perimeters of a banking levy without reliance on other parties.

Whatever the reason, the twin approach of: (i) regulating capital maintenance by reference to asset quality; and (ii) taxing 'short-term' liabilities by reference to quantity; appears to be the foundation upon which the Government hopes to build a more stable financial sector.

A difficulty with this twin approach remains that balance sheet assets and liabilities constitute two limbs of the same entity. By analogy, these components ought arguably to be controlled by one regulatory brain. It is possible to conceive of an approach where both tax and prudential regulation incentivise and regulate both sides of the balance sheet. The sophisticated analysis of how bank asset risks evolve and how assets become tainted which was undertaken and set out by Lord Turner and by the FSA[27] suggests that the same risks can affect both sides of bank's balance sheets and that, for instance, the unavailability of inter-bank funding may coincide with an unavailability of market buyers for what were thought to be safe, liquid assets. These risks could be ameliorated by regulation alone. However, the Turner Review may provide a clue as to what the Levy might achieve that regulation cannot do so easily. Lord Turner references the Modigliani-Miller theorem[28] that, based on certain assumptions, the relative cost of equity and debt financing remains the same when considering the value of a company. Indeed, the application of corporation tax to a company's profits, increases the cost of equity relative to debt, owing to the deductibility of interest. This problem is partly resolved by regulators imposing capital maintenance requirements. The Levy may be seen, however, as complementing the effect of capital maintenance requirements by increasing the relative cost of certain types of debt finance. This represents a more subtle approach than, for example, setting regulatory limits as to the proportion of the differing types of debt finance that a bank might utilise.

Nonetheless, the Levy might be perceived as only providing part of the answer to the Government's apparent policy objectives. Although the Levy seeks to tax liabilities of banks outside a narrowly prescribed group of excluded liabilities, which are perceived to be 'safe' investments, the Levy does not articulate any measures by which credit risk or interest rate risk may be addressed on the asset side of a bank's balance sheet. It is therefore arguable that asset positions which are pregnant with risk might be held by a bank through being funded by liabilities that are excluded from the tax base of the Levy. Although a bank would be able to balance such risky assets with a greater holding of, for example, Tier 1 capital, such a balancing act would not, by itself, appear to achieve the policy objective of motivating a bank away from such investments. Indeed, where a bank with high-risk assets has increased its Tier 1 holding (such holding being excluded from being a liability taken into account under the Levy), it could be argued that, somewhat counter-intuitively, such a bank would benefit from a lower liability under the Levy than a similar bank investing in 'safer' assets but with less compensating Tier 1 capital.

On a pan-European level, efforts to carve out a clear role for bank taxation have made an even less auspicious start. While the EU Commission has contemplated a 'harmonised network of national funds, linked to a set of co-ordinated national crisis management arrangements'[29], the early introduction of the Levy with effect from 1 January 2011 seems to militate against this aim. A coherent system for the global taxation of complex banks which also forms part of a global macro-prudential fiscal policy seems very distant given current divergent national initiatives, competing priorities and timetables. While at first sight the distinction between EU Commission-proposed resolution funds and national levies may appear semantic, the potential absence of a common objective of such measures may have adverse consequences. Without a consistent policy approach and coordinated perimeters, there is a risk that competitive distortions, double (or multiple) charging and avoidance may be hallmarks of the new bank taxation regimes. Without a careful calibration of national levies and funds, the overall introduction of such measures may prove distortive and fail to proportionately reduce systemic risks posed by complex cross-border banking institutions. While this danger is recognised by national governments, the EU Commission and the IMF, there is at least a risk that the early introduction of the Levy with effect from 1 January 2011 may take place at a time when the international framework of financial levies, funds and taxes focused on bank stabilisation is far from settled.

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Endnotes

1. HM Treasury consultation document published 13 July 2010, entitled 'Bank Levy: A Consultation', page 3.
2. Consultation Document, page 3.
3. Consultation Document, paragraph 3.8.
4. Consultation Document, paragraph 1.9.
5. This is acknowledged in paragraphs 4.13 and 4.25–4.27 of the Consultation Document, with the Government noting that they will 'urgently take forward discussions on resolving [issues regarding the risk of double taxation] with other countries that plan to introduce bank balance sheet levies'.
6. 'London is becoming less attractive, Standard Chartered warns', *Daily Telegraph* 5 August 2010; 'HSBC to review London HQ as Osborne's levy hits banks', *The Independent* 15 August 2010.
7. Including the legislative consultations on group mismatch schemes and accounting derecognition taking place during 2010.
8. Section 134 of the Emergency Economic Stabilisation Act of 2008.
9. See: *www.whitehouse.gov/the-press-office/president-obama-proposes-financial-crisis-responsibility-fee-recoup-every-last-penn* and *www.whitehouse.gov/sites/default/files/financial_responsibility_fee_fact_sheet.pdf*.
10. Under s53c of the German Banking Act (Kreditwesengesetz).
11. The details of the French Budget on 29 September 2010 had not been announced at the time this article went to print.
12. 'France pulls back on bank tax plan', *FT.com*, 24 September 2010.
13. 'Bank Resolution Funds', Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank, Brussels 26 May 2010, COM (2010) 254 Final, page 2 ('Bank Resolution Funds').
14. Bank Resolution Funds, page 3.
15. Consultation Document, paragraph 17.
16. Consultation Document, paragraph 1.9.
17. The projected annual amount to be raised by the Levy is £2.5bn, whereas projected income is less from levies proposed in Germany (€1bn annually), France (between €300m and €1bn annually) and Hungary (€700m in 2010, thereafter 0.7% of GDP annually).
18. 'A Fair and Substantial Contribution by the Financial Sector: Final Report for the G-20', International Monetary Fund, June 2010 ('IMF Report').
19. IMF Report, page 12. This observation should be contrasted with statements in the IMF Report which are suggestive that there is little practical difference whether the revenue raised by a banking levy accrues into a resolution fund, or simply finances a general revenue pool. Such statements do not tend, in the authors' view, to reflect the overall approach adopted in the IMF Report.
20. Consultation Document, paragraph 1.7.
21. The FSA Remuneration Code applies to 26 large banks and broker dealers and came into force on 1 January 2010, after the introduction of BPT.
22. See *FITAR* February 2010, pages 2–9.
23. 'Bonuses threaten to spark first coalition crisis', *London Financial Times*, 22 September 2010, page 3.
24. 'Super tax on bankers failed, says Darling', *London Financial Times*, 2 September 2010, page 1.
25. 'FSA Draft Code on Remuneration Practices', update of 18 March 2009, page 1.
26. 'The Turner Review: A Regulatory Response to the Global Financial Crisis' (March 2009) ('Turner Review').
27. Turner Review, pages 52–102, and the FSA Discussion Paper accompanying the Turner Review published March 2009 entitled 'A regulatory response to the Banking Crisis'.
28. Turner Review, page 57.
29. Bank Resolution Funds, page 7.