

31 October 2011

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The Banking Crisis and B&B's Accounts (Update No. 14)

Were the European Union [EU] and the Previous
Government guilty of gross misfeasance?

The previous Government played a pivotal view in the banking crisis such that we are left with debts which will take decades to repay. The claims that this was a worldwide crisis do not bear close examination as the main problems arose in the USA and Europe. To quote the Independent Banking Commission "*weaknesses in the capital and accounting frameworks prior to the crisis enabled some bank employees to be remunerated on the basis of reported profits that were neither time nor risk adjusted*". Furthermore a House of Lords committee chaired by Lord MacGregor and of which Lord Lawson, the former Chancellor, was a member produced a damning report on this in March 2011.

The Bradford & Bingley Action Group [BBAG] believes that the failures of the EU and the previous UK Government were largely responsible for the banking fiasco. Their endorsement of the International Financial Reporting Standards [IFRS] including IAS 39 in 2002, which contains the loan loss model 'incurred loss' is known to be faulty and has had devastating consequences in the UK and the Republic of Ireland where it was used for the accounts of banking companies. Needless to say vested interests such as the auditing profession reject the charge that they also helped cause the crisis and the UK Government has agreed stating "*The Government does not accept that IFRS has led to the loss of prudence*", which in BBAG's view is an absurd comment. We need to know how this standard came to be adopted and how it does, or does not, fit with law. The requirement in the IAS regulation is for an EU-IFRS to only be endorsed if it is not contrary to the requirements that accounts should give 'a true and fair view'. However IAS39 never did, nor could, show a true and fair view under UK or Irish law. In English law the true and fair view relates to the integrity of the accounts of which capital maintenance is the critical factor. The shareholders and directors, once the accounts are signed, are entitled to rely on them. BBAG believes the IFRS is a 'catastrophically defective standard' and the EU's adoption of it in 2002 may even contravene the law.

IAS 39 is at odds with the principle of capital maintenance, and so far as preparing the accounts it appears to create a limitation of scope whereby good and bad loans have the same impairment factors in the short run but in the long term will secure entirely different recoverable amounts. It does not even attempt to calculate the recoverable amount of loans which affects capital and whether a bank is a going concern or bankrupt. It would appear that the EU introduced this defective standard thus causing corporate governance and banking regulation, both dependent on reliable accounts, to fail in banking companies. The previous Government appears to have ignored all this as it was content to secure substantial tax revenue from what has proved to be the false profits of the banking companies.

The 2007 accounts of B&B were signed off by the auditors as a going concern and a dividend was paid followed by a successful rights issue completed in July less than eight weeks before the nationalisation in September 2008.

The B&B board made several public statements emphasising the strength of the balance sheet, to quote the finance director "*the successful rights issue has reinforced our position as the best capitalised UK bank*". Officials of the Financial Services Authority [FSA] were also reassuring members of the general public that all was well just seven working days before the nationalisation, which was in stark contrast with its later attempts to justify the nationalisation.

In the three years since then BBAG and its supporters have made numerous requests under the Freedom of Information Act [FOI] for details of the sequence of events pre and post the nationalisation to the Cabinet Office at No10, the Treasury, the FSA and the Bank of England, all to no avail. To date the only responses have been a mix of obfuscation and subterfuge and this suggests an attempted cover up. Consequently BBAG has reported the Cabinet Office at No10 to the Information Commissioner which is now pursuing this matter and formal complaints have been made also in respect of the FSA, the Treasury and the BBC.

The nationalisation of B&B was deeply flawed, misguided and unnecessarily disadvantaged nearly one million share and bondholders. BBAG believes the previous Government and the EU may have been guilty of gross misfeasance and that false accounting was probably a major contributory factor in the banking debacle. We have urged the Coalition to establish a full and independent inquiry with the necessary powers to secure all the facts that we have unsuccessfully requested for three years and to which we are entitled as the owners of B&B. At Prime Minister's Question Time, 1305 hrs Wednesday the 20/07/11 David Cameron said "*the Act [FOI] means that every citizen has a right to know facts on any matter*". BBAG agrees with this and looks forward to its implementation in order to establish who was responsible for and the manner in which B&B was nationalised.

Upper Tribunal Case

BBAG has requested permission to withdraw from the Upper Tribunal [UT] Case Conference for two reasons. First, the Treasury's request to withdraw has been accepted despite our objection on the grounds it would avoid scrutiny of its role in this matter. Second, the UT has made clear that its role is limited to the valuation process alone, based on the terms of reference, and will not consider the wider issues relating to the nationalization. It is also worth pointing out that a similar case pursued by Northern Rock shareholders in the Upper Tribunal was recently rejected.

Petition Reminder

In case you have not already done so, we do recommend that you sign the e-petition created to support the claims of Bradford & Bingley shareholders. Please click on this link to sign the petition: <http://epetitions.direct.gov.uk/petitions/1408>

David Blundell
Chairman