Draft Legislative Consent Motion

1. The draft motion, which will be lodged by the Cabinet Secretary for Finance, Employment and Sustainable Growth, is:

   “That the Parliament agrees that the relevant provisions of the Financial Services Bill, introduced in the House of Commons on 26 January 2012, relating to the enhancement of understanding and knowledge of the public of financial matters and the ability of members of the public to manage their own financial affairs, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by the Cabinet Secretary for Finance, Employment and Sustainable Growth, under Rule 9.B.3.1(a) of the Parliament’s Standing Orders. The Financial Services Bill was introduced in the House of Commons on 26 January 2012. The Bill can be found at:

   http://services.parliament.uk/bills/2010-11/financialservices.html

Content of the Financial Services Bill

3. The Financial Services Bill sets out a number of reforms to strengthen financial regulation and restore market confidence. The Bill will protect and empower consumers, support better corporate governance and strengthen regulation by ensuring that prudential regulation and supervision of firms is more effective. Greater emphasis is placed on monitoring and managing system wide risks, including the creation of a Council for Financial Stability.

Provisions for which Scottish Parliament consent is required

4. The Bill introduces a new section 3R into the Financial Services and Markets Act 2000. This partly replaces existing provision made by the Financial Services Act 2010 and extends the functions of the Consumer Financial Education Body, known as the Money Advice Service, following an agreement in July 2011 between UK Ministers and Consumer Financial Education Body that it would take on a direct role in debt advice. The Bill will seek to give the Consumer Financial Education Body a clear role in the provision and coordination of debt advice, and in effect to require it to provide advice on debt. The purpose of this new body is to raise the understanding and knowledge of members of the public of financial matters (including the financial system), and increase their ability to manage their own financial affairs. This is the consumer financial education function. That function is further described to include education, awareness raising and advice on benefits, risks, advantages and disadvantages of activities such as budgeting, the supply of particular goods and services and different kinds of financial dealing (some partly
related changes are also made to Schedule 1A to the Financial Services and Markets Act 2000 which makes further provision on the governance of this new body).

5. The Consumer Financial Education Body will also lead on the implementation of a new nationwide Money Guidance. This is currently tendered to Citizens Advice Scotland for delivery through face to face advice sessions in Scotland. It fills an “advice gap” for those on low and median incomes, identified by the Thoresen Review in 2008. The service will provide impartial, sales-free financial advice that is tailored to individual needs and circumstances. The aim is to have a preventative effect by raising financial capability, easing demand on debt advice and other types of crisis intervention.

**Reasons for seeking a legislative consent motion**

6. The LCM is required because the work of the Consumer Financial Education Body relates to consumer financial education as it applies to enhancing the understanding and knowledge of the public of financial matters and managing personal finance. This work is not covered by the financial services (Section A3); financial markets (Section A4) or consumer protection (Section C7) reservations in Schedule 5 to the Scotland Act 1998 and is therefore within the legislative competence of the Scottish Parliament. The reservations do however apply to the rest of the Bill. As with the Financial Services Act 2010 changes, there is no added value in separate legislation as Scottish interests are reflected in the Bill and a separate process would be complex and require further time and resources to achieve the same policy aim.

**Consultation**

7. The Scottish Government has not consulted on the provisions covered by the LCM. The Treasury has consulted on the proposals set out in the Financial Services Bill via the Reforming Financial Markets White Paper, published in July 2009 and there was almost unanimous support for the Consumer Financial Education Body. There has been extensive consultation on the proposed Money Guidance service, during the Thoresen review and the service attracts near universal support. There was some reaction among financial services firms to the increase in the levy to pay for Money Guidance but this has lessened over time. There was no resistance to expanding the levy to include consumer credit firms.

**Financial Implications**

8. There are no direct financial implications for this LCM as the Consumer Financial Education Body will be funded jointly by the FSA and a levy on the financial services and consumer credit industries.

**Conclusion**

9. The Scottish Government believes that enabling the new Consumer Financial Education Body to exercise its functions in Scotland will bring significant benefits to the Scottish people in terms of investment in financial education and delivery of
advice services. The Scottish Government therefore recommends that they should be considered by the UK Parliament.

SCOTTISH GOVERNMENT
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