



**TYNWALD COURT  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
QUAIYL TINVAAL**

**PROCEEDINGS**

**DAALTYN**

**(HANSARD)**

**SELECT COMMITTEE OF TYNWALD ON  
KAUPTHING SINGER AND FRIEDLANDER  
(ISLE OF MAN) LIMITED AND THE  
DEPOSITORS' COMPENSATION SCHEME**

**BING ER-LHEH TINVAAL MYCHIONE  
KAUPTHING SINGER AND FRIEDLANDER  
(ISLE OF MAN) LIMITED AS Y SKEIM SON  
KERRAGHEY COAYL FIR-VAIH ARGID**

**Douglas, Monday, 25th January 2010**

*All published Official Reports can be found on the Tynwald website  
[www.tynwald.org.im](http://www.tynwald.org.im)*

*Official Papers/Hansards/Please select a year:*

*Reports, maps and other documents referred to in the course of debates may be consulted  
upon application to the Tynwald Library or the Clerk of Tynwald's Office.*

**PP107/10  
TKSF, No. 3**

*Published by the Office of the Clerk of Tynwald, Legislative Buildings,  
Finch Road, Douglas, Isle of Man, IM1 3PW. © Court of Tynwald, 2010*

**Members Present:**

Chairman: Mr J P Watterson, MHK  
Mr J R Houghton, MHK  
Mr E G Lowey, MLC

*Clerk:*

Mr R I S Phillips, Clerk of Tynwald

*In attendance:*

Mr P O'Shea

**BUSINESS TRANSACTED**

	<b>Page</b>
Procedural .....	95
<b>Evidence of Hon. A Bell, MHK</b> .....	<b>96</b>

*The Committee sat in private at 5.23 p.m.*

## Select Committee of Tynwald on Kaupthing Singer & Friedlander and the Depositors' Compensation Scheme

*The Committee sat in public at 3.32 p.m.  
in the Millennium Room,  
Legislative Buildings, Douglas*

[MR WATTERSON *in the Chair*]

### Procedural

**The Chairman (Mr Watterson):** Good afternoon, everybody. Can I welcome you all to this meeting of the Select Committee of Tynwald on Kaupthing Singer & Friedlander (Isle of Man) Limited.

5 The Select Committee was appointed on 16th July 2009:

‘to investigate and report on –

- 10 (1) the cause of the collapse of Kaupthing Singer & Friedlander (Isle of Man) Limited;  
(2) the role of the Financial Supervision Commission in ensuring the proper management of Kaupthing Singer & Friedlander (Isle of Man) Limited to protect depositors' funds;  
15 (3) the credibility of the Depositors' Compensation Scheme; and  
20 (4) any other relevant matter  
and report back to the March 2010 sitting of Tynwald.’

As previously announced, the Committee has decided to split its inquiry in two. The first part of the inquiry will deal with the first two parts of the remit, namely the cause of the collapse of Kaupthing Singer & Friedlander (Isle of Man) Limited, and the role of the Financial Supervision Commission in ensuring the proper management of Kaupthing Singer & Friedlander (Isle of Man) Limited to protect depositors' funds. Once we have reported on that part, we will turn our attention to the credibility of the Depositors' Compensation Scheme and any other matters which may need to be investigated.

We are meeting today to take our third session of oral evidence and we have invited Mr Allan Bell, MHK, Treasury Minister, to give evidence. Further evidence sessions are planned.

25 My fellow members of the Committee are Mr John Houghton MHK; Mr Eddie Lowey MLC; Mr Phillips, the Clerk of Tynwald and Counsel to the Speaker, is the Committee's Clerk and legal adviser; and Mr Phil O'Shea is a specialist adviser to this Committee. Mr Clive Alford is our *Hansard* Editor and he is recording today's proceedings. At this point, if I could just ask everybody to kindly ensure your mobile phones are switched off.

Mr Bell, thank you very much for joining us.

30 **Mr Bell:** My pleasure.

**The Chairman:** I would like to invite Mr Lowey to kick off with the questions, please.

35 **Mr Lowey:** Good afternoon, Minister.

**Mr Bell:** Good afternoon.

**EVIDENCE OF HON. A BELL, MHK**

40 **Q490. Mr Lowey:** Minister, 2008: could you tell us when you first learnt of the problems facing KSF? Two queries I have got for you: firstly, when did you inform Council of Ministers of those concerns; and secondly, were those concerns first raised by you to the FSC, or did they come via the FSC to you?

Those are the three real queries. I am trying to paint a picture leading up to the collapse of KSF.

45 **Mr Bell:** The overall Icelandic situation, we were aware, was deteriorating really from probably early summer of 2008, but that was a general understanding that we had at that time.

As regards the specific problem we are talking about, which is the final collapse of KSF, really we had no foreknowledge that it was on the point of collapse at all, until we were informed on the... Well, I was informed actually on the morning of 9th October following the decision taken by Alistair Darling in London to freeze the Icelandic assets. I had a concern for about a week or 10 days prior to that though, although all the feedback we had from the bank at that time... and I just forget the date now, but perhaps four or five days prior to the decision, spoke to Mr Gelling, who was the Chairman of KSF at the time, to ask for his view of how things were going. At that point, I was told that everything was fine, the bank was still solvent, it was still trading and there were no real concerns expressed to me at that point.

55 I endeavoured on 8th October to contact Mr Gelling again to try and get an update, because by that time things appeared to be unravelling quite rapidly, and I was unable to because Mr Gelling was in an all-day session with the bank, which went on very late, I think, on the night of the 8th when the decision was taken to take it to the courts the following day. I learnt of that decision first thing on the Wednesday morning when I came into the office. So that was really the extent of the knowledge we had of the specific problem locally. Obviously, as soon as we found out about it, we informed the Chief Minister and I think... I cannot remember now whether Council of Ministers was told the same day or the day after, although obviously it was out in the public arena anyway at that time, so Council of Ministers knew in advance.

60 So it came to me from Mr Gelling that the bank had gone, rather than from the FSC.

65 **Mr Lowey:** That is fine, thank you.

**Q491. The Chairman:** Is that the way you would expect to hear about such a significant issue as this?

70 **Mr Bell:** Obviously, not having been in this situation before – and hopefully no-one will be in this situation again – it is difficult to generalise. I think it is an indication, though, that the bank itself was liquid, it was solvent, it was trading profitably, right up to the decision which was taken by the United Kingdom Government to freeze the assets, and therefore, because of that situation, I think there was perhaps a different approach than might otherwise be the case.

**Q492. The Chairman:** You said you had concerns seven to ten days before the bank went under. Can you tell me what informed that specific concern?

80 **Mr Bell:** The only concern that was starting to build up in my mind was press speculation following certain actions and comments coming out of Iceland and, of course, the regular comments about the Icelandic banking situation which appeared in the UK press, in particular the *FT*.

85 **Q493. The Chairman:** When did you speak to Mr Gelling about those concerns?

**Mr Bell:** As I say, I cannot just remember which day it was, but it was about four or five days prior to the actual collapse of the bank itself, so it would be early October, the first few days in October.

90 **Q494. The Chairman:** Thank you. Can I take you back a bit to the takeover of Singer & Friedlander by Kaupthing. At that point, was there any involvement by Treasury? Was that raised by the FSC to Treasury?

95 **Mr Bell:** No. There are quite clear demarcation lines between what Treasury is involved with  
and what the FSC, as a regulator, has to do, and we have been very conscious of that and have  
worked very hard over the last few years to put clear blue water, in most cases, between the  
regulator and the political body. This is an area which was commented on strongly by the IMF  
100 when it visited in 2003, both in the Report itself and in conversations I have had with the IMF  
inspectors. So the regulation and the impact of any changes, such as the takeover, is strictly the  
domain of the FSC and at the time there was no concern expressed to me, as Treasury Minister, at  
all of any detrimental impact of the takeover.

105 **Q495. The Chairman:** Most banks on the Isle of Man traditionally have been subsidiaries or  
branches of UK parents. Was it flagged up to you that this was a new area that the Isle of Man was  
venturing into by moving the parent company from the UK to another jurisdiction, which would  
be a relatively new experience?

110 **Mr Bell:** No, there was no information passed on to me from the FSC at all at that point. There  
were no alarm bells ringing. It was just seen as ongoing business, basically.

115 **Q496. The Chairman:** In terms of the concerns that started to bubble up within Treasury in  
the spring and summer of 2008, were Treasury informed, directly or indirectly, of the discussions  
that were happening between the FSC and KSF at that time about placing the money in London?

**Mr Bell:** No.

**Q497. The Chairman:** Something again that the –

120 **Mr Bell:** Again, that is a regulator issue; it is not for Treasury to be involved in that.

**Q498. The Chairman:** But you say that the risks identified by Treasury were generic ones  
about the Icelandic economy.

125 **Mr Bell:** Yes, and the Glitnir and Landsbanki of course were in trouble before Kaupthing  
were, so it was really just an assumption that there was a domino effect perhaps happening.

130 **Q499. The Chairman:** So in that spring/summer when these concerns were starting to grow,  
what work was done either within Treasury or at the behest of Treasury by way of looking at what  
exposures the Isle of Man might have in terms of a risk perception to the Icelandic economy?

135 **Mr Bell:** We were obviously taking advice, should any alarm bells ring, from the FSC itself.  
We were, though, at that point, looking at the need to update the Depositors' Compensation  
Scheme. It was not just an Icelandic thing, you will remember, at that time. The whole of the  
banking system was in some turmoil and it was progressively getting worse. The Island was in a  
very fortunate position that we were one of the very first jurisdictions to have a Depositors'  
Compensation Scheme going back to 1991, but we were aware at that time, by early summer, that  
it probably needed updating.

140 So there was some discussion on what we should do to modernise the DCS in the light of any  
possible problems which might evolve later on in the year. The situation, though, at the time, and  
the advice that was given, was that it was best to wait a little while longer as there were evolving  
standards for depositors' compensation schemes coming out of the United Kingdom and coming  
out of other European countries, and indeed our competitors in the Channel Islands were  
considering DCSs as well. So we decided to simply monitor the progress of these DCSs so that  
145 when we did update our own it would be completely in line with international standards.

So that really was the extent of the work we did on that at that particular time.

150 **Q500. The Chairman:** I appreciate what you have described there is about the Depositors'  
Compensation Scheme and that is something we will come to in the second part of our remit. I am  
sure we will have you back to discuss that at a later date.

**Mr Bell:** Very kind of you. Thank you.

155 **Q501. The Chairman:** But in terms of the here and now, in terms of the risks that were  
becoming apparent within Treasury, as you said, in the spring and summer of 2008, what work

was happening within Treasury to look at where the risks of the Icelandic economy were coinciding with the risks to the Isle of Man?

160 **Mr Bell:** We were very much advised by the FSC on how the risk was developing, and throughout that summer, although there was a general unease at the way the Icelandic economy and related companies, banks etc were developing, there was no specific work done in Treasury because there were no particular alarm bells ringing on the advice of the FSC at that time.

165 **Q502. The Chairman:** But you said that the FSC were telling you about the generic risks and problems within Iceland. Are there many – ?

**Mr Bell:** Only in a general sense.

170 **Q503. The Chairman:** Yes, but are there many other Icelandic companies on the Isle of Man?

**Mr Bell:** As far as I know, Kaupthing was the only one, yes.

175 **Q504. The Chairman:** So the FSC were telling you about generic Icelandic issues, but were not talking to you specifically about Kaupthing Singer & Friedlander.

**Mr Bell:** The real concern was the banking system at the time and the need to protect depositors and see what we could do to make sure that our Depositors' Compensation Scheme was up to scratch. So the discussions centred more around the banking system. Iceland was just one part of that.

180 **Q505. Mr Lowey:** Systems generally, as opposed to specific.

**Mr Bell:** Generally, yes. That is right, yes.

185 **Q506. The Chairman:** So it was not a conversation about the risk from Iceland; it was a conversation about the risk in the banking sector.

**Mr Bell:** In the banking system generally, yes.

190 **Q507. The Chairman:** On 13th October, one of Government's investment managers – Singer & Friedlander Investment Management – was taken over by Thomas Miller. Given that the firm went into provisional liquidation on the 9th, there was a weekend and then it was the 13th when it was taken over. Were you involved directly in any part of that, or did that come as a surprise to you on 13th October when it was announced?

195 **Mr Bell:** We knew that the company was... because it was a separate company within Kaupthing. We knew that that element of it was attractive to a number of fund managers. There were, I think, three or four suitors for the purchase of that, so insofar as we were aware that there were discussions taking place, yes, I knew what was going on, but we were not directly involved in any of it. It was a commercial decision taken to sell it on, and Thomas Miller was the ultimate victor in that.

200 **Q508. The Chairman:** But that decision to sell was as a direct result of the collapse of the bank.

205 **Mr Bell:** As I understand it, yes.

**Q509. The Chairman:** So it did happen very quickly.

210 **Mr Bell:** Yes.

**Q510. The Chairman:** In terms of Government's investments, there were approximately £355 million of the Isle of Man's reserves being managed by the investment manager. Had the investment manager collapsed, Government's funds would have still been safe, wouldn't they?

215 **Mr Bell:** As far as we know, yes.

220 **Q511. The Chairman:** And this was not foreseen, but there were no significant changes to investment management contracts during 2008?

*Mr Bell:* Not as far as I can recall off the top of my head. I would need to check.

225 **Q512. The Chairman:** When the bank went under on the morning of the 9th, how much Government money was deposited with Kaupthing Singer & Friedlander (Isle of Man) Limited?

*Mr Bell:* With KSF directly we had £2.7 million, and with the investment managers we had £8 million.

230 **Q513. The Chairman:** So the money was with the investment manager, not with the bank?

*Mr Bell:* £8 million was with the investment manager; £2.7 million was with the bank.

235 **Q514. The Chairman:** But the £8 million was not a bond with the bank; it was just money invested in equities or something like that, which was being managed by KSF (IOM).

*Mr Bell:* It was being managed by them, yes.

**Q515. The Chairman:** So it was never money that was actually in the bank.

240 *Mr Bell:* Not in cash terms, if that is what you are saying.

**Q516. The Chairman:** Yes, that is what I am trying to get... I am just looking at the overall exposure.

245 *Mr Bell:* No, it was there on a contract, as a one-year contract, actually, which would have been redeemed in December 2008, so it was just a 12-month investment.

**Q517. The Chairman:** The £2.7 million?

250 *Mr Bell:* No, sorry, that is the £8 million.

**Q518. The Chairman:** The £8 million then was a –

255 *Mr Bell:* Sorry, the £8 million... Sorry, the £2.7 million again was in on a 12-month term, I think, which was due to be repaid in February 2009.

**Q519. The Chairman:** Let's just make sure we get this clear. The £2.7 million was a one-year bond with the bank –

260 *Mr Bell:* With the bank, redeemable in February 2009.

**Q520. The Chairman:** And the £8 million was?

265 *Mr Bell:* Similar, with the investment manager and redeemable in December 2008.

**Q521. The Chairman:** So was it a bond with the bank? Was it placed by the investment manager as a bond with the bank, or was it invested in a pool of equities or as an independent investment?

270 *Mr Bell:* I think it was an independent investment.

**Q522. The Chairman:** Presumably you will be able to clarify that for us?

275 *Mr Bell:* Yes, I am sorry, I have not got that information with me.

**Q523. The Chairman:** So in terms of the total exposure that the Isle of Man Government has, it is £2.7 million.

280 **Mr Bell:** It had, yes. We have already received £1.1 million back again though from the liquidator.

**Q524. The Chairman:** So you put that claim in and, like every other creditor, you have received a pence-in-the-pound return on it.

285 **Mr Bell:** We are exactly on a par with all the other creditors, so there has been 40 per cent repaid so far and we have had our 40 per cent back of that money. The £8 million is still in dispute.

290 **Q525. The Chairman:** In terms of the overall exposure of the taxpayer, we have just bottomed that out at being £2.7 million. I will leave that there for now then.

Do you believe that the collapse of Kaupthing Singer & Friedlander was avoidable? At this point, if I could ask you to leave aside considerations of the Scheme of Arrangement and the rest of it, but up until 9th October.

295 **Mr Bell:** All the information that I have had would indicate that the bank, prior to 8th October, was solvent, was profitable and the regulator had no real concerns about its operation. On that basis, had it been able to continue, and had it had access to all its funds, i.e. the 50 per cent which was held in London, I think the bank still would have been operating today. I have no doubt at all about that, and I think that is borne out too by the recent comments made by the liquidator, that the top-end expectation of the repayment of that is 94 per cent, and I think that shows the strength of the balance sheet at that time, notwithstanding that 50 per cent of that balance has been held in London and lost in London.

300 **Q526. The Chairman:** So, in terms of responsibility, who do you believe is responsible for the collapse of Kaupthing Singer & Friedlander (Isle of Man) Limited?

305 **Mr Bell:** It is a combination of factors. I think obviously the exuberance of the Icelandic financial system started the deterioration of the Icelandic economic situation. That in turn led to the collapse of Glitnir and Landsbanki. That again in turn caused real concerns in Westminster with Alistair Darling.

310 Mr Darling had a conversation with the Icelandic Finance Minister not long prior to the collapse of the bank where it would appear allegedly the Icelandic Finance Minister gave the impression that Iceland would not protect UK depositors – he was only going to look after Icelandic depositors. That triggered the reaction from the United Kingdom. Alistair Darling brought in his measures to freeze the assets of the Icelandic entities in the UK, and in conjunction with the FSA did just that. That action precipitated the collapse of the bank on the Island. I have no doubt at all about that.

315 But the other element, above all, in that, which I think, even today it could have avoided the situation, is the performance of the Financial Services Association, the FSA, in London. The total absence of any communication between the FSA and the FSC in the time leading up to this event, I think precipitated the situation here. It is interesting, if you look at the wider events around that time, it was only a few days – a week or 10 days, I am not clear of the date now – prior to Kaupthing going under that we had the same problem with Bradford & Bingley and there was a strong feeling then that that bank, that building society would have gone as well. But the FSA, two or three days prior to a resolution to the problem, contacted the FSC and collectively they worked out a plan which resolved the issue very effectively both in the Isle of Man and the United Kingdom. No-one lost any money and then the changeover of ownership of the bank took place smoothly and the bank still operates effectively now. Had that same action taken place between the FSA and the FSC a few days before the Kaupthing decision, I believe there was an opportunity there for us to, one way or another, taken an action on the Isle of Man to protect Kaupthing. There was, for whatever reason, a breakdown in communications from the FSA to the Isle of Man, and that was the final straw which precipitated it.

320 **Q527. The Chairman:** We will perhaps come onto the relationship between the Isle of Man and the UK a little bit later on, if that is alright.

325 Staying on Island for now, and in terms of the relationship between Treasury and the Financial Supervision Commission, could you outline the general delineation of duties between Treasury and the FSC and the relationship between the two?

340 **Mr Bell:** I do not know whether you are aware of it, but there is actually an MoU between the  
FSC and Treasury which was signed. It is on the website, but I can give you a copy as you go,  
which clearly delineates all the respective roles and the behaviour expected of either party,  
particularly in crisis, and there is a section here on operational crisis management, which you  
345 might find most illuminating. But essentially, Treasury sets the overall policy and the FSC has  
autonomy basically in the actual regulation and supervision of the financial services industry, and  
then Treasury acts as a link between the FSC back to Government, through the Council of  
Ministers to Tynwald and there is a very clear delineation of responsibility between the two.

350 As I say, this issue of independence of the FSC from Government is absolutely crucial in the  
eyes of the international financial arena; not just on the Isle of Man, but regulators everywhere  
have to be seen to be quite separate from the political body.

**Q528. Mr Lowey:** Could I just interrupt you there, Minister – through you, Chairman. If that  
is the case, why did the FSA in the UK, the week prior, which you have just told us about, I think  
with Bradford & Bingley, they had an arrangement and they worked it through. Therefore there  
355 was a system within the system to allow them to expedite or create the conditions for a successful  
outcome, and yet here we say in the Isle of Man the FSC must never involve itself. Most of these  
things are three parties, aren't they? Bradford & Bingley and the FSA were not the only parties in  
play here, were they? It would be the Treasury or the Bank of England. There would be a third  
360 party involved.

**Mr Bell:** Yes, I am sure the UK Treasury would have been aware of the Bradford & Bingley  
situation and I assume the Bank of England would have had an involvement in it too.

**Q529. The Chairman:** Is your MoU between Treasury and the FSC based on a similar model  
365 between Her Majesty's Treasury and the FSA?

**Mr Bell:** I have never seen a definitive description of the relationship between the FSA and the  
UK Treasury, but I would imagine it would be fairly similar.

**Q530. The Chairman:** You said that Treasury sets the general policy and then the FSC is left  
370 to deal within that. What sort of areas does the Treasury set policy on, and are there any examples  
you can perhaps recall where you would be setting a general policy for the FSC to operate within?

**Mr Bell:** I cannot think of specifics at the moment. I would have to go back and check. It is not  
375 very often that we... In fact, it is very rare. I cannot think that we have ever given a direction to  
the FSC in terms of policy, but we would generally consult with the FSC if we are developing new  
areas of activity, new products, that we would wish to develop and new legislation that we would  
wish to develop. Treasury has a direct link and responsibility for the financial services industry on  
the Isle of Man and we very regularly, with a broad spectrum of the industry and not just the  
380 banking sector, the whole of the industry. We listen very closely to them and if some of the  
suggestions put to us identifying new avenues of business activity... if we find that acceptable in  
terms of the overall reputational situation and obviously economic advantage to the Island, we will  
frequently talk to the FSC, not by way of giving direction, but simply consultation – can this be  
done, can this be achieved? – and if there is a consensus that yes, there is an opportunity there,  
385 then we would set the overall policy guidelines – yes, we would like to do that – and then the  
regulatory side of things is developed by the FSC itself, but we do not give specific directions to  
the FSC on what those regulations are.

**Q531. The Chairman:** So, in terms of, for example, takeovers and mergers within the sector,  
390 that would be a matter entirely for the FSC, (**Mr Bell:** Yes.) and Treasury would not have the  
power to block any such –

**Mr Bell:** No, we would not, unless it was deemed obviously against the national interest – if  
395 there was a reputational risk involved, if there was a specific danger to the Island – and it is  
inconceivable that that would happen.

**Q532. The Chairman:** And yet the move of the financial services industry into a new parent  
relationship with Iceland, rather than with the traditional parties in the UK in the Isle of Man, was

400 not deemed to be a policy decision of such importance that would come to the attention of  
Treasury.

*Mr Bell:* Not at that time, no. I do not think when the takeover took place... I am not aware  
405 that there were any particular concerns about Iceland at that time, and certainly it was not brought  
to my attention, as I said earlier.

**Q533. The Chairman:** In terms of KSF specifically, were you ever made aware of any of the  
allegations that were made by Mr Shearer, a former director of KSF (UK)?

410 *Mr Bell:* No.

**Q534. The Chairman:** Sorry, of Singer & Friedlander (UK), I should say.

415 *Mr Bell:* No. I was at the Treasury Select Committee meeting. I heard Mr Shearer give his  
evidence. I have never had any meeting or contact with Mr Shearer and I was not aware of any of  
his concerns.

**Q535. The Chairman:** Treasury does, however, bring forward items of regulatory legislation  
420 on behalf of the Financial Supervision Commission. (*Mr Bell:* That's right.) among things such as  
the Rule Book and the primary legislation. What scrutiny of that secondary legislation is done by  
Treasury before it reaches Tynwald?

425 *Mr Bell:* My officers in particular scrutinise it very carefully before it goes for... we do not  
rubber stamp that regulation. Clearly, there is a political exercise which has to be done, even  
though there is no interference with the FSC, that the regulation has to be proportionate. We want  
to have the highest standard regulation of the industry, but equally we want to keep an industry.  
We could have a regulation standard which is whiter than white, but no industry to regulate at the  
end of it, so there is a balance there that has to be struck.

430 **Q536. The Chairman:** So do you believe that the FSC's working practices are adequate on the  
one hand and proportionate on the other?

*Mr Bell:* In general, yes.

435 **Q537. The Chairman:** Are there any particular areas of concern that you would want to raise?

440 *Mr Bell:* I do not have any specific concerns. We have a good understanding between the FSC  
and Treasury. But this is a three-way thing. There is a relationship between Treasury and the FSC,  
but there is equally a relationship between Treasury and the industry at large, and if there are any  
concerns about the practice of the FSC, it generally comes from the industry itself to Treasury and  
then those concerns are passed on.

**Q538. The Chairman:** Are you content with the remit of the FSC?

445 *Mr Bell:* At the moment, yes, it is working well; but it is something which is obviously an  
evolving situation and in particular, of course, worldwide there is a review of the various  
regulatory bodies now, in the light of the banking collapse worldwide. As we have heard even in  
the last few days, there are likely to be moves in many jurisdictions now to tighten or at least  
review the regulatory regimes which apply in those countries, and the Isle of Man generally  
450 follows international standards, so in due course there may be a need to review the Isle of Man  
FSC regulatory remit in the light of evolving international standards.

But at the moment that relationship works very well.

455 **Q539. The Chairman:** Do you have any concerns, in hindsight and as Treasury Minister,  
about the FSC's handling of any part of the Kaupthing Singer & Friedlander collapse?

*Mr Bell:* On the information I have at the moment – and I am assuming the information I have  
is complete – there may be other issues outside of my knowledge, but as far as I know at the  
moment – I am very content with the performance of the FSC. As I said earlier, my real concern

460 was the attitude and performance of the FSA and the UK Treasury in the collapse, rather than the  
response that came from the FSC.

**Q540. The Chairman:** Under schedule 1 of the Financial Services Act, it is the duty of  
Treasury to nominate Commissioners for Tynwald approval. Treasury is therefore responsible for  
465 appointing Commissioners who are directors of financial institutions, regulated by the Financial  
Supervision Commission. We have heard in previous evidence with the directors about actual and  
perceived conflicts of interest that this gives rise to. On reflection, do you think that appointments  
by people who are part of the industry as regulators was a mistake?

**Mr Bell:** It is a very difficult issue, this, and it is something we have looked at on a number of  
470 occasions in Treasury over the last few years since I have been Minister. We have an absolute  
dilemma – and it is not just an Isle of Man thing. I think it is a small jurisdictional thing: that we  
have, on the one hand, to try and get the best possible people we can, who are willing to act as  
Commission members to carry out this exercise and people who have a current knowledge of the  
various aspects of the industry that they are involved in. To achieve that, on occasions, to get the  
475 best people available, these best people are sometimes also still involved, directly or indirectly,  
with the business in some form or other.

To get, on the other hand, individuals to stand who are whiter than white, who have no  
connection with the industry, or no current connection with the industry, may often mean that you  
will not get candidates coming forward who have a current understanding or knowledge of that  
480 industry. It is actually very, very difficult. It is difficult anyway to get people to come forward  
with relevant experience to take on this role, but to get someone who has current experience but no  
current involvement in the industry is actually very, very difficult in a small community and I have  
always, whilst obviously very conscious of the perception of potential conflicts of interest, sought  
to get the best people we can for the FSC. That is where we are today.

**Q541. The Chairman:** Do you think that the Isle of Man's reputation has been damaged by  
485 the perception of conflicts of interest that have been caused here?

**Mr Bell:** I think there is no doubt at all it has been presented by some people as a deficiency on  
490 the part of the Isle of Man that there has been a perception of conflict of interest. It is very easy, of  
course, for people off Island to make observations like that, because from a distance things often  
look very black and white. On the Island, knowing the integrity of the people we are dealing with,  
perhaps there is a slightly different perception. It is difficult to say.

Certainly it has been presented that at the very least it has been unfortunate that certain  
495 individuals have been involved, but at the same time, for quite a period after the collapse of KSF,  
bank deposits on the Isle of Man increased quite dramatically, so confidence actually was still  
quite strong in the Isle of Man banking system.

**Q542. The Chairman:** Do you consider it a cause for concern that people who are within the  
500 industry as directors of a firm can sit on a regulatory body regulating, in effect, their competitors  
and getting an inside track on what their competitors are up to?

**Mr Bell:** That, again, is a perception problem. I am given assurances from the FSC that there  
are very clear guidelines for all commissioners that if there is any conflict of interest they have to  
505 declare that interest, not only in their own company, but I think, as I understand it, in related  
business, and they have to stand aside from that business, because clearly it would be  
inappropriate, I think, for competitors or commissioners to have access to confidential information  
of their competitors.

**Q543. The Chairman:** As a result of this, do you plan any changes to the system in this  
510 regard?

**Mr Bell:** Yes. Unfortunately, it has been deflected because of some of the other crises that  
have hit us in the last 12 months, but it is my intention to have a root-and-branch review of the  
515 FSC and the IPA, both to ensure that they are fit for purpose in the modern evolving environment  
and also to see whether, in this day and age, we still need two regulators and in fact whether it  
might be more appropriate to amalgamate them.

Obviously, part of that will be a review again of the position of Commission members, and we  
will also, of course, be taking cognisance of international evolving standards as well in regulatory  
bodies and of course we will be listening to any comments you have to make.

520 **The Chairman:** At this stage, I would just like to move on to the general... Unless anyone has got anything they want to pick up on those.

525 **Q544. Mr Lowey:** Only on the point... I am reminded, when I hear the Minister speak... and I have heard him speak like that before and recognise the validity of the point he is putting, but then, as Lord Denning once famously said, I think with Mandy Rice-Davies giving him information, 'he would say that, wouldn't he?' But having said that, my position is equally clear... reputation, and I am delighted to hear the Minister tell me that he is giving a root-and-branch overhaul and amalgamation is on the cards. I appreciate that.

530 Could I ask... Again, coming back to my earliest question to the Minister, where he said that we knew there were storm clouds gathering because of the press and what have you... Even Eddie Lowey knew that, that there was something seriously wrong with Iceland in the months preceding it.

535 At no stage did the FSC, in these informal meetings, which I hope and I trust you do have from time to time... You meet in a variety of social activities with the industry and you must talk about the generality of the world situation, in which we are a world dealer now. That is the other picture which tends to be forgotten, that somehow we are working just within the confines of this jurisdiction. This jurisdiction deals with the world now, so you must talk informally. Do you think that at no time it was the duty of the FSC to say to you, 'Minister, you must be aware of Iceland and it is giving us cause for concern, and by the way, we are taking certain steps to redeem it'?

540 **Mr Bell:** As I said, in early... I am sorry to be vague about the date, but it was early summer, we did discuss the deteriorating international banking system. The situation in Iceland obviously was raised as part of that overall discussion, but there was no specific concern expressed to me about Kaupthing at that time. They were all in general terms to be aware of what was going on. So it was almost ongoing monitoring of the situation, apart from the DCS and the possibility of having to amend that. That is really the only action that we took at that time.

**Q545. The Chairman:** And this was an informal rather than a formal meeting?

550 **Mr Bell:** Yes.

**The Chairman:** Phil.

555 **Q546. Mr O'Shea:** Yes. Just regarding your comment about the FSC, I think it was within the FSC evidence discussions around the fact that there were certainly moves to remove exposure to Iceland. I just wondered, with hindsight, whether you have any views in terms of the balance and whether the degree of commerciality overcame the need for actually removing that Icelandic risk?

560 **Mr Bell:** This was a matter for the regulator; it was not for Treasury to be involved in it. It was a regulatory decision taken, I think, on the basis of an initial approach from Kaupthing, rather than the other way round, about their concern about the situation. I do not think there was a specific direction to move it to London. There was, I think, an agreement that it was necessary to move it away from Iceland because of the deteriorating situation in Iceland, but Treasury was not involved in that decision so I cannot actually comment on the conversation that took place.

565 **Q547. The Chairman:** That is a level of policy that is set below Treasury. It is not a level... You do not consider then it is a matter of systemic country risk?

570 **Mr Bell:** The decisions that the regulator takes in relation to the regulated industries, i.e. in this case a bank, is one for the regulator. The discussions, in terms of the deteriorating situation in individual countries is part, or has been part, of a wider but more informal discussion that we have from time to time.

575 **Q548. The Chairman:** Moving on then to the business model about upstreaming, Kaupthing Singer & Friedlander (Isle of Man) Limited was a subsidiary of Kaupthing hf in Iceland. Most of the banks on the Isle of Man are either branches or subsidiaries of UK or Irish parents. Some are structured as branches, some are structured as parents. Do you know roughly why the difference occurs between them, why people would structure as a branch or as a subsidiary and what the relative economic benefits are?

580

**Mr Bell:** It is just their internal business models. I do not know the specifics behind that, no.

**Q549. The Chairman:** So in terms of the economic benefit, you do not see a big difference between branches or subsidiaries?

585

**Mr Bell:** We take advice from... There is the ability for these entities to either have a branch or a subsidiary. It is their business model that decides which one they go for and that really is a matter strictly for the regulator. We have no involvement in that and clearly Treasury have no ability to direct one way or the other.

590

**Q550. The Chairman:** And the protection afforded to depositors is not considerably different either way?

**Mr Bell:** As far as I know.

595

**Q551. The Chairman:** In terms of the upstreaming model, in terms of banks collecting... Sorry, I knew there was one more thing. The 10-per-cent rate of tax is the same, irrespective of whether a bank is a branch on the Isle of Man or a subsidiary?

600

**Mr Bell:** Yes, I think so.

**Q552. The Chairman:** Okay. The upstreaming model, whereby banks set up on the Isle of Man, collect deposits here through a mixture of individual and corporate clients and then upstream those back to the parent is largely the model that the Isle of Man banking offshore operation is built on. Is that a conscious policy choice by Treasury? Is that something that has ever been discussed in terms of the sustainability of the model?

605

**Mr Bell:** This is not just an Isle of Man situation; this applies in most offshore situations. There is a large proportion of upstreaming in Jersey, Guernsey, other jurisdictions and obviously it provides liquidity for the parent company, wherever that might be based. It is a model which, until recently, has not given any real concerns to the Island. It is a model that has worked well. Business on the Isle of Man has grown very, very effectively over the years and we have a number of very profitable banks here which have been paying substantial amounts of tax. So the model has not really been brought into question until the recent turmoil in the banking system.

610

615

**Q553. The Chairman:** Do you think it is the role of the regulator, the Treasury or Government generally to set the framework out that sets out the balance that is acceptable between capital adequacy and protection on one hand and business commerciality on the other?

620

**Mr Bell:** That has always strictly been the role of the regulator, and still is.

**Q554. The Chairman:** So Treasury has no part to play in getting the right balance between growth and profit against safety and regulation?

625

**Mr Bell:** No, that is very much a regulator's role. If Treasury, as a political entity, were to start interfering with the regulatory role and directing the regulator to allow one entity in, or stop another, we would be moving into a grey area then of mixed responsibilities, which we have worked strenuously to avoid.

630

**Q555. The Chairman:** Sorry, I am talking at the systemic level within banks as a whole – the entire industry in terms of that level of risk-reward factor. I accept there is an element of political judgement in there as to what minimum standards should be achieved by banks.

635

**Mr Bell:** That has not been the case to date and I have seen no need for Government to get involved in that. Nevertheless, I think over the next handful of years there will be a review – in fact, a review is already under way – of the banking system worldwide, liquidity, capital adequacy etc. This is a wider debate, I think, than just the Isle of Man, but we will be part of that and that situation will be reviewed in due course.

640 **Q556. The Chairman:** The total expected recovery for Kaupthing Singer & Friedlander is looking to be roughly the high 80s or low 90s pence in the pound. In light of that recovery rate, do you think that that justifies or highlights the weaknesses of the upstreaming model?

645 **Mr Bell:** I do not think so. I have no reason to...

650 **Q557. The Chairman:** I suppose, if I word it another way, the fact that roughly say 90p in the pound is going to be recovered from the liquidator, do you think that that suggests that there is a weakness in the system and that losing 10p in the pound was unacceptable, or that it represents a fair risk and that it actually justifies the upstream model as an acceptable one, that 90p in the pound is a fair recovery?

655 **Mr Bell:** Given where we started from 12 months ago, I think the fact that there is an expectation of 90p-plus in the pound return now to the investors is much better than we could have hoped for, bearing in mind that 50 per cent of the deposit a year ago, eight to 15 months ago, was actually held in the United Kingdom. I would not say one way or the other whether this endorses the upstreaming policy or not. I think it is the quality of the loan book, the probity of the way the bank was operating and the quality of the business it was doing, which has ultimately generated that response.

660 **Q558. The Chairman:** But would you suggest that there is a significantly different level of risk between the upstreaming model and any other bank that fails for any other reason?

**Mr Bell:** I am sorry, could you just repeat that?

665 **The Chairman:** The business model of this bank was one of upstreaming. (**Mr Bell:** Yes.) The recovery was 90p in the pound. There have been other banking collapses that we have seen, which are not on that model. Do you think that that still represents, in terms of a bank collapse, an acceptable return?

670 **Mr Bell:** I think, under the present circumstances, if we can achieve that figure, or even higher because we are still some distance from the conclusion to this, the measures which have been taken, are as good as we could hope for. There have been, obviously, other problems with the banking system in years gone by, which, as you rightly say, are for entirely different reasons. Those certainly were not business models which we would encourage to be associated with the Isle of Man today, or anywhere else if it comes to it. So I do not think you can compare one with the other. I think the three now which we have experienced over the last 30 years are somewhat different in their models.

680 **Q559. The Chairman:** There was the news put out on Friday by the provisional liquidator of KSF that their application as a creditor of the parent bank, hf, had been declined. What is the position of the Isle of Man Government in terms of what it hopes to do about this situation?

685 **Mr Bell:** This essentially is a role for the liquidator at the moment. I have not had direct contact with the liquidator since that statement was made. I have only just learnt about this position this afternoon. I understand that this is likely to go straight to court in Iceland now to try and resolve it one way or the other, but we will obviously be getting an update from the liquidator in the near future as to what the implications of this might be.

690 **Q560. The Chairman:** The loss, as I understand it, does not actually impact on the pence-in-the-pound return, but it is about the validity of the guarantee. Is it your view that the guarantee given by the parent company was a valid one, and was that very much the assumption that we were working on in the Isle of Man, that the guarantee given by the parent company to the local bank was sufficient, adequate and enforceable?

695 **Mr Bell:** This is all with the benefit of hindsight, because clearly I was not aware of any of the detail of this at the time, but on the face of it, it appeared that the guarantee was a valid guarantee and one which would be normal practice in that situation. We did go to Iceland to meet the representatives of the Kaupthing reconstruction committee and they believed at that time that the guarantee would still be honoured, although I think there was pending court action at that time in

700 Iceland to confirm that, but the information I have had anyway from all sources at that time was, it was deemed to be a valid guarantee.

**Q561. The Chairman:** In terms of the collapse of KSF, did Treasury consider operating as a lender of last resort to KSF (Isle of Man)?

705 *Mr Bell:* No.

**Q562. The Chairman:** Why not?

710 *Mr Bell:* After the collapse, are you talking about?

**Q563. The Chairman:** Yes, on the 8th, 9th, 10th, that sort of time of December. Did Treasury consider stepping in and offering a loan to Kaupthing Singer & Friedlander?

715 *Mr Bell:* I think, given the volatility of the situation at the time, it was not felt appropriate that Government would step in to fill that role. What Government did look at doing though – and this might be straying into other areas for today – is, given the strong, or the report of the strong performance of the bank prior to the collapse, we did investigate, as one of the options, a mechanism whereby the bank in fact might be reconstructed and sold on to a third party, that we might be able to save what was left of the bank and a fair amount of work went into reviewing that.

**Q564. The Chairman:** So who took the policy decision that neither nationalisation or a loan to the bank would be an acceptable route?

725

*Mr Bell:* Shortly after the collapse – within a day or two, I think, of the collapse – the Chief Minister set up what I think he called the Gold Committee, which was representative of various aspects of Treasury, the Attorney General and one or two politicians, to look at the whole way forward and I think, from memory, it was discussed as one of the issues there.

730

**Q565. The Chairman:** That is separate from the Council of Ministers' Working Group, which was a steering committee which was yourself, the Chief Minister and the DHSS Minister?

*Mr Bell:* No, that was through Council of Ministers. Sorry, yes. I think we used to call it the Gold Committee or Gold Group, but I cannot... Perhaps I have got my golds and silvers crossed!

735

**Q566. The Chairman:** I think the first minutes of that Group that I have seen were of 30th October. Are you saying that there were meetings before that time?

740

*Mr Bell:* I would have to check on the dates. I am sorry, I am just not sure.

**Q567. The Chairman:** I appreciate that. If you would be able to clarify whether there were meetings held before the end of October, 30th October, which I think is the first date that we have any minutes for. So if there was anything before that, could you just check that and get back to us?

745

*Mr Bell:* Certainly 30th October is reasonable.

**Q568. The Chairman:** Somewhere in February, I think was the first set of minutes that we had had of that particular Group.

750

*Mr Bell:* There certainly would have been discussions. Obviously we would not have been sitting on it for a fortnight, so...

**Q569. The Chairman:** But this was dealt with entirely by that Group, rather than Council of Ministers as a whole?

755

*Mr Bell:* I think so, yes.

760 **Q570. The Chairman:** In the weeks afterwards – and you have alluded to this already – you went to Iceland with the Chief Minister and the Chief Secretary. Can I ask on those visits, who did you meet and what were your objectives?

765 **Mr Bell:** It is not the reconstruction... I will give you the name of the committee. I cannot just remember the name of the Icelandic committee now that was set up to investigate it. The purpose really was twofold, on an information-gathering exercise in the main, it was to inform them of the work that the Isle of Man was doing and the concerns, obviously, that we had for the welfare of the depositors and the relationship with the Isle of Man; and to try and glean from them their view on the parental guarantee and what would happen there.

770 **Q571. The Chairman:** So what was Treasury's view when you left Iceland about the prospects of getting further money back from either the old Kaupthing Bank, the new parent or the Icelandic Government, or elsewhere?

775 **Mr Bell:** My own personal view was it was an exercise which needed to be done, but in reality I did not expect it to generate very much. The bank itself was in a pretty desperate state. The Icelandic economy and Icelandic Government finances were in a pretty desperate state. It was a very friendly, constructive meeting, but I think in terms of bringing anything back tangible to say that either we will have a guarantee or there will be money coming, I was not very optimistic at that point.

780 **Q572. The Chairman:** In the light of speculation that has been ongoing since October 2008, have you requested a review of parental guarantees of banks on the Island?

785 **Mr Bell:** Not yet, not from Treasury, no. This is, again, a regulator's role to do that.

**The Chairman:** Does anyone want to...

790 **Q573. Mr Lowey:** Can I just question the Minister about... There is no such thing as an absolute guarantee, is there, in this world? Surely Iceland gave the parent, KSF, a child of the mother bank in Iceland, a guarantee – 'you are safe with us'. The bank operates in our jurisdiction and it is sold with the guarantee of the mother department.

795 There is another comfort factor for people in the Isle of Man in that our organisation, i.e. the FSC, operate in close liaison with their other child bank, which is the English arm of KSF, so we have that... So we do not get the guarantee from Iceland honoured, we certainly do not get, from the evidence you have given – and I see nothing to contradict that so far, that the FSA have been anything other than welching on what I would call their agreement to co-operate with our FSC on this matter. So I just want that to be quite clearly understood. Everybody is looking for absolute certainty, but you do not get that with any bank, never mind this particular foreign entity operating at arm's length here.

800 **Mr Bell:** I think you also need to take that one step further, bringing it up to date as well, and that is the current problems which exist between the United Kingdom, Holland and the Icelandic Government and the IMF, in terms of their overall loan that they are getting. The newly elected Icelandic Government have agreed to repay over a period of time the UK and the Netherlands, the money that has been put in to protect their depositors. This, of course, has been overturned, or at least put on ice, by the President. It has to go to a referendum. That may or may not get through in due course.

805 When that happens, then the whole financial situation relating to the Icelandic Government will change again at that point. So you are absolutely right in absolutes. There are so many other issues going on at the moment that we just do not know how this is going to turn out.

810 **Q574. Mr Lowey:** But the hard reality is that we believe that our depositors here in this bank will get 90 per cent – 80 to 90 per cent – of their deposits returned?

815 **Mr Bell:** It is worth recognising, I think, that as we speak I think the figure now is in excess of 70 per cent of all depositors have had all their money back, 100 per cent. The anticipation is that something like 75 per cent – in fact, we probably are nearer to 75 per cent – will get 100 per cent of their money back, and whatever the balance is, will get, according to the liquidator, up to 94 per cent of their money back too. It is obviously very disappointing that they are not getting 100 per

820 cent back, but bearing in mind the work that we put in, the work the liquidator is putting in, I think  
the situation is going to end up much better than we anticipated it might have done a year ago  
when we were first looking at it.

825 **Q575. The Chairman:** Thank you. Are you aware of criticisms of the Island's authorities and  
the liquidators in respect of communications with depositors?

830 **Mr Bell:** Yes, especially in the early days, I think. I was contacted by a fair number of people  
and I think other politicians were, and indeed other officers. Clearly, the shock of the bank going  
generated a great shock amongst the depositors, but also a great deal of fear because a lot of the  
people were dependent on the income those deposits were generating to keep them going. There  
were a lot of frightened – and quite understandably so – people outside, who were frantically  
trying to get any information possible.

835 We, at Treasury, I think – and, in fact, I know – worked round the clock. We had a team  
working seven days a week, including over Christmas and New Year, to respond to depositors, to  
give them all the information that we had available to give to them.

840 There are two other issues there. There was, obviously, information that we did not have, that  
some of the depositors were actually looking for. We just did not have answers to all their  
questions, and therefore some of the depositors felt that we were perhaps not entirely forthcoming  
with the information. That was unfortunate because we were giving out as much as we actually  
had at the time.

845 There were though, in the early days, some real concerns about communications from the  
liquidator provisional, and that was not just between the liquidator provisional and the depositors;  
there was also a problem with communications between Treasury and the FSC and the liquidator  
provisional. That was as much a frustration to myself and to the Chief Minister's Committee as it  
was to the depositors themselves.

850 We also had great difficulty – very great difficulty – in communicating with the Committee of  
Administration set up for KSF (UK). It was weeks and weeks before we got any sliver of  
information out of them. They appeared to be charged to sort out Kaupthing Edge more than  
anything else, and every other consideration was put on the back burner while they sorted the  
immediate problem. Therefore, it was very difficult for us to get any indication what was  
happening in the UK and what the likely outcome might have been.

855 So it is understandable that, at the time, many of the depositors were very frustrated at what  
they saw as a lack of information, but I think the structures we set up, in Treasury and through the  
Chief Minister's Committee, did as much as we possibly could at the time to keep people informed  
of progress.

860 **Q576. The Chairman:** Do you feel that communications are smooth now between all the  
parties involved on the Island, between the FSA, the Government and the liquidator, and the  
liquidator to the depositors?

865 **Mr Bell:** As far as I know, the situation has improved quite dramatically. Having paid off – or  
repaid, I should say – 70 per cent of the depositors now, there is a large chunk of the people...  
Three quarters of the people almost are out of the equation, so there are fewer lines of  
communication that we need to keep open.

I understand that the situation between the FSA and the FSC has improved.

**The Chairman:** I will come on to that bit. If we can just –

870 **Mr Bell:** Sorry, I thought that was one of your questions.

**Q577. The Chairman:** No. I was talking specifically about on Island, between the liquidator,  
the Government and the regulator.

875 **Mr Bell:** I am sorry, I misunderstood you. Yes, it has certainly improved from where it was 12  
months ago.

**Q578. The Chairman:** So you think it is now working smoothly?

880 **Mr Bell:** It is working smoother than it did 12 months ago.

**Q579. The Chairman:** Is it working smoothly?

*Mr Bell:* In the main, yes, I think it is.

885 **Q580. The Chairman:** Do you think that there have been lessons learnt there and things that  
you would do differently if, in future, there was a liquidation which Government had a significant  
interest in?

890 *Mr Bell:* It is difficult to say at this stage. I think we did, at the time, pretty well everything we  
could do to help the depositors. Our main concern in all this was to help the depositors. All our  
efforts were focused on that one area, which I, as Minister at the time, was completely signed up  
to, and anything else was secondary. Perhaps, with the benefit of your report and hindsight, we  
will internally review the situation once again to see if anything else has been identified which  
895 perhaps we had not picked up at the time where things might be improved. Certainly, apart from  
the communication side of things, I am not aware at this point of anything specific where  
immediate improvement was needed, but that is not to say that we cannot improve the situation  
again if, God forbid, it ever happens again.

900 **Q581. The Chairman:** So you are satisfied then that Government, in pursuing this, had all the  
powers it needed to get the information that it needed?

*Mr Bell:* I think the powers were fine; it was human frailty sometimes which blocked some of  
the communications.

905 **Q582. The Chairman:** So what did you see as the roadblocks?

*Mr Bell:* It is possible that the issue of the speed it came out, the complexity of the problem  
that certainly the liquidator provisional was dealing with and the resources perhaps which were  
available to him at the time, somewhat overwhelmed us in the early instance.

910 Going back to communications and the communications there, you have to realise, of course,  
that the depositors were not all living in Douglas; they were scattered in every corner of the world.  
Some had access to the internet; some did not. It was very difficult – not in all cases, but in a good  
number of cases – to keep in regular touch, and these people above all were the ones, I think, who  
felt cut off from what was happening. So on that side – the communications – I do not think there  
915 was very much more we could do on that. I do not think we needed more powers to improve that;  
it was improving technology, perhaps.

920 **Q583. The Chairman:** Do you think maybe then it was a matter of resources for the liquidator  
that was a stumbling block in the effective communication between all the parties involved?

*Mr Bell:* I have obviously only got secondhand experience of it, so I could be corrected on it,  
but if there was a weakness, I would suggest that might be the area that we should be looking at.

925 **Q584. The Chairman:** Unless there is anything else, I would like to move on to relationships  
with other agencies now, specifically... Just broadly then, which UK agencies have you been  
dealing with on this whole issue?

*Mr Bell:* Treasury direct?

930 **The Chairman:** Directly or indirectly, but certainly Treasury directly, obviously.

*Mr Bell:* The main route with the UK, obviously, and through the Chief Minister in particular,  
has been through the Ministry of Justice. That is our link into the UK Treasury. There have been  
some contacts with the UK Treasury, but we have been doing it officially through the channels and  
935 the good office of the Ministry of Justice (MoJ).

**Q585. The Chairman:** So most of your contact has been with either the MoJ or through the  
MoJ, or some direct with Treasury in the UK?

940 *Mr Bell:* Mostly through the MoJ, but some direct, yes.

**Q586. The Chairman:** Could you define the relationship between the Isle of Man Government Treasury and the Ministry of Justice, just for clarity, for those who maybe do not understand the constitutional niceties?

945 **Mr Bell:** The Ministry of Justice has the constitutional responsibility for looking after the  
interests of the Isle of Man and representing the Isle of Man's concerns to whatever the relevant  
Government Departments are concerned with the issues of the day. This is a longstanding  
950 relationship and we, Treasury, have used – either directly or, more usually, through the Chief  
Secretary – that route into the Ministry of Justice to make contact with the UK Treasury and any  
other bodies. There is though a direct regulator-to-regulator relationship, as we have spoken of  
with the FSA and the FSC, and that, I think, is used on a very regular basis, probably several times  
a week in some cases.

955 **Q587. The Chairman:** How would you describe relations between the Isle of Man  
Government and the Ministry of Justice?

**Mr Bell:** Very good.

960 **Q588. The Chairman:** How would you describe relations between the Isle of Man Treasury  
and Her Majesty's Treasury in London?

**Mr Bell:** Interesting.

965 **Mr Houghton:** Not as good.

**Q589. The Chairman:** Would you care to expand on that?

**Mr Bell:** Not on the record, no.

970 **Q590. The Chairman:** Obviously, it is one of those things that has been a significant concern  
on and off the Island about this case.

975 **Mr Bell:** Yes, I appreciate that. I think the UK Treasury... Obviously, their first concern is for  
their own taxpayers in the United Kingdom. That is their overriding concern. I think the  
constitutional relationship with the Isle of Man, or indeed any other third country, is very much  
secondary to their own priority, which is to look after the UK interests, and if those secondary  
interests get less than active treatment, or occasionally trampled on, then that is collateral damage,  
I think, in the eyes of the UK.

980 **Q591. The Chairman:** So on 14th October, when HMT – Her Majesty's Treasury – undertook  
to represent the Isle of Man's interests in negotiating a settlement with Iceland, are you content  
then with the manner and the veracity with which the Treasury, acting on our behalf, has  
represented us?

985 **Mr Bell:** That is an interesting question. The UK obviously, because of the constitutional  
situation, has the responsibility for representing the Isle of Man internationally, and it is only the  
UK that can negotiate with the Icelandic Government direct, and it was made very clear to us at  
the time that the Isle of Man could not negotiate directly, Government to Government, with the  
Icelandic Government. It had to be done through the UK.

990 The UK Treasury did ultimately agree to represent the Isle of Man as part of the discussions,  
but I think those discussions, post that initial commitment, took quite some time – a couple of  
months, I think – before they actually got under way. So there was no feeling that there was any  
urgency behind that commitment.

995 **Q592. The Chairman:** But are you content with the manner and the veracity with which HMT  
have ultimately represented the interests of the Isle of Man, by which, of course, I mean the  
interests of the depositors who were with the Isle of Man branch and the management of the bank  
and the Isle of Man Government generally?

1000 **Mr Bell:** The UK Treasury have been very robust in protecting the interests of the depositors  
who banked in the United Kingdom. (**The Chairman:** Yes.) I think the interests of the depositors

who banked in the Isle of Man were very secondary in those considerations and certainly had considerably less consideration applied to them.

1005 **Q593. The Chairman:** Let me turn it round then: have you seen any evidence whatsoever that the UK has made any effort whatsoever in representing Manx interests to Iceland?

*Mr Bell:* No.

1010 **Q594. The Chairman:** And yet the Isle of Man's constitutional position is that it cannot negotiate directly. Is it fair to say that the UK officials would be quite aggressive had we tried to negotiate directly?

1015 *Mr Bell:* It was indicated strongly to us that if the Isle of Man broke with protocol and ignored the constitutional position and tried to negotiate directly with Iceland, Treasury would, in effect, wash their hands of us.

1020 **Q595. The Chairman:** Which is effectively what they have done anyway, but managed to keep us quiet at the same time.

*Mr Bell:* You could say that.

1025 **Q596. The Chairman:** Thank you. I accept that you are somewhat between a rock and a hard place on that, but I think it is important to get that element out. Do you accept the finding of the UK Treasury Select Committee that, and I quote:

'... the UK authorities should seek to work closely with other interested parties such as the Financial Services Commission of the Isle of Man to maximise the transparency of the administration of KSF (UK) in order to facilitate the best outcome for all depositors...?'

1030

*Mr Bell:* Yes.

1035 **Q597. The Chairman:** Do you believe that the FSC and FSA have been co-operating properly during and after the process of the collapse of KSF?

*Mr Bell:* Obviously, I can only go on the assurances I have had from the FSC. I am told that that relationship has improved.

1040 I did meet with Alistair Darling a week or three before Christmas on other issues, but in passing raised the issue of co-operation between the FSA and the FSC, and he did promise at that time to ensure that that relationship would improve.

I think there is a review of the FSA going on at the moment in the UK – the Turner Review – which is likely to lead to some restructuring of the FSA, and part of that review, I think, is focusing also on the communications aspect of it and its relationship with its associated parties.

1045 So two parts to the answer, really. As far as I am aware, on the advice I have been given, the relationship has improved somewhat from that low point at the collapse of KSF. It may well evolve still further with the review that is taking place, but at this stage it is too early to say what that future relationship might look like.

1050 **Q598. The Chairman:** So, in terms of pushing progress, you are talking about just before Christmas 2009 that you spoke with Chancellor Darling and have been pursuing this line of better co-operation?

*Mr Bell:* Yes.

1055 **Q599. The Chairman:** Would you support having the FSC–FSA relationship put on a statutory footing?

1060 *Mr Bell:* I think the whole question of co-operation between regulators internationally is something which is going to be reviewed in the coming year or two as a result of the collapse of the banking system. Whether that would go as far as putting regulator-to-regulator relationships on a statutory footing remains to be seen. To put it on a statutory footing you have to have two players to begin with to make it work, and whilst we may be very signed up to that concept –

especially as we were the losers of that relationship this time – it may well be that the other party might have a different view of things.

1065

**Q600. The Chairman:** Do you feel that, at any time during this whole saga, you or the Government or the FSC have been deliberately misled by anybody?

1070

**Mr Bell:** I cannot say at this stage whether I have got evidence that anyone was deliberately misled. I think there has been, on occasions, a less than robust exchange of information between certain parties, which on occasions might have led to misunderstandings perhaps or a lack of clarity – not misunderstandings, a lack of clarity perhaps – on certain situations. I would not say that there has been a deliberate attempt... In spite of my concerns that I have expressed today, I do not think there has been a deliberate attempt to mislead people.

1075

The issue we are talking about you have got to put in the context of the time. It is easy, with hindsight today, to sit back and say we should have done *a*, *b* and *c*. You have really got to understand just how frenetic the situation was round about that period with the whole of the banking system in danger of collapsing in the UK, problems worldwide... Lehman's was about that time, various other incidents took place. If there was any failure to pass on all information, it was as a result, I think, of the huge workload and pressures that various bodies were under at that time.

1080

**The Chairman:** Thank you.  
Mr Houghton.

1085

**Q601. Mr Houghton:** Thank you, Mr Chairman.

Mr Bell, we discussed earlier the memorandum of understanding that was signed at the Treasury, between the Treasury and the Financial Supervision Commission, on 1st July 2008. Was this done to ensure that all communications between the Treasury and the FSC complied with the strict requirements of the Financial Services Act 2008 concerning disclosure of information by the FSC, or was it for other reasons?

1090

**Mr Bell:** No, it was an agreement which we had been discussing for some time. The relationship, going back, I think, for quite a number of years – certainly in advance of my taking over as Treasury Minister – was somewhat of an informal relationship between the FSC and Treasury, and I felt, and I think the FSC themselves felt, it would be very helpful, for both parties actually, to have it in writing so that we can see quite clearly each other's respective responsibilities.

1095

1100

**Q602. Mr Houghton:** A more formalised approach?

**Mr Bell:** That is right, yes.

1105

**Q603. Mr Houghton:** Thank you. Do you, as Treasury Minister, require therefore scrupulous compliance with its terms by your Department, now that it has been signed and it has been in for well over 18 months?

**Mr Bell:** Yes. As far as I know, the spirit certainly of the agreement is working well at the moment. It has not been brought to my attention that there are any particular deficiencies in it.

1110

**Q604. Mr Houghton:** Thank you. Does this include requiring minutes of all meetings between the Treasury and the FSC to be agreed and signed?

**Mr Bell:** I will have to check on that. There are, obviously, informal meetings which take place, particularly between the Chief Executive of the FSC and the Chief Financial Officer. I am not aware of them necessarily being minuted. They are more just background briefings on the events of the day.

1115

**Q605. Mr Houghton:** So is there any code of understanding between the informal meetings that they had and formal meetings that they had –

1120

**Mr Bell:** When there is a formal meeting –

1125 **Mr Houghton:** – and what is the difference?

*Mr Bell:* Yes, I think when there is a formal meeting – and there are not that many of them, to be fair enough – they are minuted, but I think in the main, informally, they are not minuted. They are just really informal –

1130 **Q606. Mr Houghton:** Can you let the Committee have copies of the formal minutes of your meetings? Can you arrange for that?

*Mr Bell:* There will be very few. Going back how far?

1135 **Q607. Mr Houghton:** Covering the area, let's say, March 2008 through then to the end of 2008 on this subject.

Can you tell me also whether the FSC's concerns in the approach to October 2008 that it was discussing with the Treasury were on a formal or an informal basis?

1140 *Mr Bell:* I have had very limited conversations, as I have said, and at that time I think they were informal.

**Q608. Mr Houghton:** It was a very serious matter that was building up to a crescendo, because there were actions, of course, as we know, that were taken by the FSC –

1145

*Mr Bell:* Yes, but I did explain that –

**Mr Houghton:** – certainly around the May time, that really, do you not think, should have been handled more on a formal basis in its communication with the Treasury?

1150

*Mr Bell:* Not necessarily. Treasury does not get involved in the day-to-day regulation and management of the financial services industry, and particularly of the banking sector. These are decisions strictly for the regulator to take, and I would not want it any other way.

1155 **Q609. Mr Houghton:** Thank you. We have mentioned earlier about the operational crisis management under the memorandum of understanding. Can you confirm that KSF (Isle of Man) was a crisis within that paragraph? It is a technical question, but it is a question...

*Mr Bell:* Yes, it cannot be considered anything else.

1160

**Q610. Mr Houghton:** So when did the Treasury, can you recall, first become aware that there was a potential crisis?

1165 *Mr Bell:* I thought I really had answered that question at the start. The first that I heard about it, that the bank had actually decided to go into court, was on 9th October. I had personal unease a few days before that as a result of comments which appeared in the press. Those fears were allayed at the time by the Chairman of the bank and, as I said previously, there was nothing specific raised with me prior to that that the bank itself was in dire straits.

1170 **Q611. Mr Houghton:** Mr Aspden has given evidence to us on when he told the Government the bad news about KSF (Isle of Man) as matters progressed. It is apparent, from the evidence received so far, that Mr Aspden put it that you were made fully aware of the situation on Tuesday, 7th October 2008, and that KSF (Isle of Man) was a prospect for liquidation. Is that correct?

1175 *Mr Bell:* I might have had a conversation; I have to say, I cannot remember it. It certainly would not have been a minuted conversation, I do not think. I spoke to Mr Gelling three or four days prior to that. Obviously, the situation was very volatile round about that time. I have no recollection of him telling me that, but I would not argue; it may have been mentioned.

1180 **Q612. Mr Houghton:** I just wonder, would you be good enough to find out what meetings actually took place between members of the FSC, the Treasury and the Chief Minister's Office, or all three, between 7th and 10th October 2008? It would help us put the jigsaw together and we would be very grateful if we could have that.

1185 **Mr Bell:** Between the 7th and the 10th?

**Mr Houghton:** Between the 7th and 10th, yes, the actually minutiae, as it were, and the goings on, of course, on it.

1190 **Mr Bell:** Alright.

**Q613. Mr Houghton:** The FSC's evidence is that on 24th April 2008 the board of the FSC agreed that the executive should discuss arrangements with KSF (Isle of Man) to cover the group indebtedness to KSF (Isle of Man) by 100 per cent by independent assets. When did the FSC tell  
1195 Treasury about this rather prudent proposal?

**Mr Bell:** I had no formal notification of it.

**Mr Houghton:** Or, if you are not sure, can you let us have the details? If you can send the  
1200 details on about that... It will all be recorded in *Hansard*, of course, for you to come back to us.

**Q614. The Chairman:** Sorry, just to follow up, you said you had no formal notification of that. In other words, it came as one of the things that was news to you after the bank had gone into  
1205 liquidation?

**Mr Bell:** Yes.

**The Chairman:** I just wanted to clarify that.

1210 **Q615. Mr Houghton:** Thank you very much indeed.

In the FSC's evidence on 2nd May 2008, Mr Aspden told the board of the FSC that he had briefed the Chief Financial Officer and the Assessor of Income Tax of potential impact on Government revenues as a result of the FSC strengthening its requirement on liquidity, which will affect profitability of institutions. What do you recall about this? What was the size of the potential  
1215 impact on Government revenues, and what was the Treasury's response at that time?

**Mr Bell:** On what date?

1220 **Mr Houghton:** On 2nd May, in early May.

**Mr Bell:** This was a meeting with the Chief Financial Officer. I was not involved in that.

**Q616. Mr Houghton:** Were you involved in that meeting?

1225 **Mr Bell:** I would have to check on that.

**Mr Houghton:** I would be grateful if you could.

**Mr Bell:** Sorry again, 2nd May?  
1230

**Q617. Mr Houghton:** On 2nd May, yes, and if I may ask if you could let us know how you balance the safety of customers' deposits against adverse impacts on Government revenues, its relative... If you could let us have any notes of those meetings between those officials at the time, we would be very grateful.  
1235

**Mr Bell:** Yes. I can get these questions from *Hansard* and –

**Mr Houghton:** I appreciate that.

1240 **Mr Bell:** – I will make sure that we answer as best we can.

**Q618. Mr Houghton:** At their meeting on 2nd May, the board of the FSC considered the possible repercussions on the Isle of Man and the political issues which would arise if they required KSF (Isle of Man) to place its deposits on an independent assets basis. From your  
1245 perspective, what were the main political implications of that?

*Mr Bell:* Again, I was not involved in this, so I cannot comment on what the concerns were of the day.

1250 **Q619. Mr Houghton:** It is rather strange that there was no information upstreamed to you, of course, from those officials for a decision to be made or thoughts to be made –

*Mr Bell:* That is a strictly regulatory decision. It is not a decision Treasury would be involved in. (**Mr Houghton:** No.)

1255 Sorry, this is the point. Perhaps I am not being very clear. There is a very clear demarcation between what Treasury is responsible for and the regulator. The area you are investigating now is a regulatory issue; it is not political.

1260 **Q620. Mr Houghton:** Yes, it is, but what I am seeking to know is just how much information you were given in these areas, and were you actually informed. Of course, to some of these questions I have asked, you are stating that you were not informed. It is just interesting to know that, and I am grateful for that.

1265 Further, at their meeting on 2nd May, the board of the FSC unanimously resolved to retain its requirements that KSF (Isle of Man) should remove all the group indebtedness to the Isle of Man by appropriate means. When were you informed about that, Treasury Minister?

*Mr Bell:* This is moving the money from Reykjavik?

**Mr Houghton:** If you are not sure, can you let us have details on any –

1270 *Mr Bell:* Sorry, are you saying that this is in relation to moving the money out of Reykjavik?

**Q621. Mr Houghton:** No, what I am asking is the resolve to retain its requirement that KSF should remove all of the group indebtedness to the Isle of Man by appropriate means.

1275 *Mr Bell:* It was not raised with me at all, but –

**Q622. Mr Houghton:** The issue obviously ended up in the United Kingdom, as we know, of course.

1280 *Mr Bell:* Yes, but this again is a regulatory matter. It is not something which I was informed about or aware of at the time.

1285 **Q623. Mr Houghton:** As long as you had no knowledge about it... and therefore there was no upstreaming of information.

1290 *Mr Bell:* I am slightly digressing, but I really want to make it very clear: my policy since I took over at Treasury, and in particular following the IMF review in 2003, was to keep a very clear distance and a strict respect of the respective responsibilities between the regulator and the political entity of Treasury. These are regulatory matters and whilst I am aware there were informal discussions between the Chief Executive and my Chief Financial Officer, it was not an area that the politicians would get involved in to make a decision in any way at all, it was for the FSC to make their decisions based on their own judgement at that time.

1295 **Q624. Mr Houghton:** It is just the information again that you actually see it, as a political head of the Treasury of course, is what interests me in this particular area.

You have already mentioned that you have spoken occasionally to Mr Gelling, more closer to the time obviously during October but between April and June can you recall any contact that you had with the directors of KSF (Isle of Man)?

1300 *Mr Bell:* I never had any contact.

**Q625. Mr Houghton:** Were you in the picture at all of any knowledge of the background information that was going on?

1305 **Mr Bell:** Not of KSF itself, no. I had no – other than I have said before the wider awareness obviously of what was going on – I am not aware of any discussions with Mr Gelling or any of the directors during that period.

1310 **Q626. The Chairman:** The directors at the time, from the evidence that they have given, seemed rather aggrieved by the rather harsh stance taken by the FSA on this. They did not make representations –

**Mr Bell:** The FSC?

1315 **Q627. The Chairman:** Yes, the FSC on this. They did not make representations to you that perhaps an alternative proposal or that they were being unduly scrutinised or over scrutinised by the FSC?

1320 **Mr Bell:** No, there was no lobbying or alternative argument. This was strictly a relationship between the regulator and the regulated entity. It was not for political involvement.

1325 **Q628. Mr Houghton:** Okay, more close to the time then. We understand that you met Mr Aspden on Tuesday, 7th October 2008 at which you discussed a paper on the Depositors' Compensation Scheme putting the compensation up for individuals to £50,000 which is mentioned.

**Mr Bell:** Oh yes, sorry, I was thinking of a different meeting, but I did meet him on the DCS, that is right, yes.

1330 **Q629. Mr Houghton:** What was the relevance of this meeting to the KSF position at that time?

**Mr Bell:** None.

1335 **Q630. Mr Houghton:** Are you absolutely sure of that?

1340 **Mr Bell:** Absolutely. We had been speaking... As I said earlier, we had been aware, obviously, of the deteriorating situation with the banking industry worldwide over that summer period. I had a concern at the start of the summer that we needed to look at least at modernising or up-rating the DCS at that time.

1345 There were increasing concerns being expressed by depositors, especially small depositors, not necessarily in Kaupthing, but right across the banking sector on the Isle of Man and I felt – as I said earlier – the advice I had was to leave it for a month or two and see whether in fact the UK and other European entities and indeed the Channel Islands developed a new standard for DCS because we did not want to be out of line with what the international norm was. So the decision was taken to defer it over the summer, but come the end of September it was quite clear that we had to do something. People were starting to panic. There were lots of concerns being expressed.

1350 I wanted to take as swift action as I could at that point to try and reassure people that they would be covered, that we did modernise and update the DCS at that time, so the discussions we had on 7th October were very much work in progress, just putting the finishing touches I think to the thoughts that we had.

1355 **Q631. Mr Houghton:** And I do appreciate that I am eating slightly into the next issue, of course, that we are doing, but there is a little bit of overlap on this. It does seem ironic that the timing was so great with the impact and –

1360 **Mr Bell:** As Treasury Minister it was a nightmare, frankly, because these were two quite separate incidents. The DCS was not... When we started work on this, it had nothing to do with Kaupthing. We were not even aware at that point of the situation that Kaupthing ultimately ended up in. It was a desire to bring in a relevant, modernised DCS for all bank deposit holders on the Isle of Man.

**Q632. Mr Houghton:** Was anything else discussed at that meeting do you recall?

1365 **Mr Bell:** I have no recollection, no. My understanding was it was round the DCS, but there may have been marginal discussions on other things, I really cannot recall.

1370 **Q633. Mr Houghton:** And can you let us have copies of the minutes of that meeting? Surely that meeting was minuted?

**Mr Bell:** I will have to check.

**Q634. Mr Houghton:** Surely to goodness. Thank you.

1375 The Government evidence, Mr Bell, shows that following the Treasury's meeting with John Aspden on Tuesday, 7th October, you and Mark Shimmin, our Chief Financial Officer, knew there was a prospect of the liquidation of Kaupthing. On 9th October, you informed Tynwald – and I quote:

1380 '... indeed, when I made my statement on Tuesday, we were not aware that Kaupthing were in a position to take the action which we now learn they have done this morning.'

1385 Your Tynwald statement conflicts with the evidence of what John Aspden has said about what you and the Chief Financial Officer knew. What is the true position in that particular regard? Can you recall? When did you actually know? We have got a difference in the evidence that we have been given by Mr Aspden and the timing of what the other officials knew and when you knew.

1390 **Mr Bell:** The first I knew that Kaupthing had gone under was on the morning of 9th October, which I think was the same day as the Tynwald sitting, was it not? That was the first I knew officially of this – I do not want to repeat myself – in spite of the enquiries I had made, I had been reassured by the chairman of the bank up to the night before, everything was still okay.

Clearly the events of the 8th changed all that but the purpose of bringing an earlier sitting of Tynwald forward was not to do with Kaupthing at all; it was to do with bringing reassurance and confidence back to the small depositors who were starting to panic about the overall state of the banking system.

1395 It was a nightmare for me, as Minister, to wake up the following morning – the same morning – and find that we had lost a bank at the same time, because clearly, and it is quite understandable, people were putting two and two together and getting what they did, but I can give you an absolute assurance that there was no link between Kaupthing and the revised DCS at that time.

1400 **Q635. The Chairman:** And Mr Aspden did not mention it specifically, Kaupthing, during your meeting on Tuesday 7th?

1405 **Mr Bell:** I have no recollection of it and I did in fact recently ask Mr Aspden whether he could recall and he was unclear as to whether he had said anything on that day or not, but my own memory is that it was the DCS basically we were working on and this rapid turn of events the following day caught us all wrong-footed I think.

**Mr Houghton:** Okay. In the Isle of Man – I have got two more questions –

1410 **The Chairman:** Yes, that is fine.

**Q636. Mr Houghton:** Thank you very much indeed.

1415 In the Isle of Man's evidence to the United Kingdom Select Committee and in the FSC's Annual Report 2009, the Isle of Man made complaint that the United Kingdom's lack of timely communication over the collapse of KSF (UK) deprived the Isle of Man of – and I quote:

'valuable time to consider possible solutions for retail depositors before the cessation of business occurred.'

1420 Given this and the Island's financial commitment to the revised Depositors' Compensation Scheme and Treasury's sponsorship of the failed Scheme of Arrangement, could you state whether the Isle of Man Government has moved to a rescue culture for failing banks with commitments of government finance to such rescues or does Government maintain its previous position that it will not rescue a failed bank and will not act as a lender of last resort. I appreciate we have gone through a little bit of this in the past but it is a point in question.

1425

1430 **Mr Bell:** We obviously will be looking at the final outcome of your report and our own experience in responding to this particular problem. We are currently – I think consultation is finishing about now – reviewing arrangements for a further revision of the Depositors' Compensation Scheme. That will be coming back to Tynwald in due course, but I cannot see the Isle of Man taking on the role of lender of last resort, bearing in mind the resources that that would entail.

1435 Having said that, I would not like to make any commitment at this stage until we have had a chance to actually review the situation, review your findings and again with all the reviews which have gone on around about us, put the various elements together to get an overall picture.

**Q637. Mr Houghton:** Thank you.

1440 Finally, the Chief Minister's first Statement on KSF (Isle of Man) was on 10th October 2008 and concerned the parental guarantee that was clearly seen as important by Government at that time. The proof of this guarantee has been rejected by the Winding-Up Committee in Iceland.

If the guarantee is invalid, what are the implications for the FSC as regulators overseeing the transfer of retail deposits from the Derbyshire Offshore to KSF (Isle of Man) where this guarantee was an important protection?

1445 **Mr Bell:** I cannot answer that question at the moment –

**Mr Houghton:** You can come back to us on that, it is a technical question.

1450 **Mr Bell:** This has only just come out today. We are not aware of the full implications of that. I only learnt about it at lunchtime, so I really would not even want to speculate at this stage because I would quite possibly give you the wrong information.

**Mr Houghton:** I would be grateful for the input, I do not expect a full involved verbal reply now, but if you could send that on, I would be grateful.

1455 **Mr Bell:** We will assess the situation and let you know.

**The Chairman:** Mr Lowey.

1460 **Q638. Mr Lowey:** Just slightly back, Minister, if I may, about failure by people... to mislead, in effect. Surely the lack of information, can I just recall... Forgive me and correct me if I am wrong, but did the Bank of England not intervene with the bank, sell it, give it to ING to limit the amount of work that could be done and then the Government came along and froze the assets of the bank under the Anti-Terrorism Act and the FSA did not even inform the directors of KSF of what was going on? The directors of the bank, who were in theory in charge of that bank, did not know what was happening to the hundreds of millions of pounds which we have learnt is irregular... It is not a normal transaction for offshores to upload their assets to the mother banks wherever they may be.

1470 So it is not so much wanting to mislead, but the lack of information from the regulatory body, first of all to the Manx regulatory body, is a cardinal sin, if I can put it that way, of this whole sorry saga and the fact that even the directors of the bank were not informed of what was going on. We had them sitting there and they told us they were as amazed as anybody to be told that these sort of actions were taking place unbeknown to them. Is that not a failure?

1475 **Mr Bell:** It is and if you have to put your finger on one single action, it is communication that has broken down in this whole exercise.

My own suspicion is that the actions taken within the UK Government and that is the UK Treasury, the Bank of England and the FSA in particular, failed to recognise the connection to the Isle of Man. I think the Isle of Man ultimately was collateral damage in the actions taken by the UK.

1480 My own suspicion and it is no more than that is that the Isle of Man was not in the equation at all when they took this action. It was not a deliberate action against the Isle of Man, we just happened to get caught up, I suspect, in activities which moved exceptionally fast, even in the UK Treasury, because I think Alastair Darling's conversation with the Icelandic Finance Minister which seemed to have precipitated this action, would appear to have taken place within only about 1485 24 hours or so of this action having been put in place.

1490 The only slight hesitation I would have on that particular comment though, is that they must have had some sort of emergency plan drafted in the UK Treasury to move that quickly with all the various entities and orders drafted etc, to get it in place as quickly as they did. So whilst the explanation that has been given was that the action was taken on the back of a conversation allegedly held with the Icelandic Finance Minister, you cannot help but feel that there might have been thoughts given to a possible outcome of this, prior to that conversation having taken place.

**Mr Lowey:** Thank you Chairman.

1495 **Q639. The Chairman:** Mr Bell, we are 15 months on now from the collapse of Kaupthing Singer & Friedlander and looking back, in the cold light of day, do you think that there were perhaps any mistakes made or lessons learnt that you would care to reflect on?

1500 **Mr Bell:** I am sure with the benefit of hindsight and again perhaps with benefit of a more rounded view that this Committee will hopefully come up with, there will be lessons to be learnt, ways that we could perhaps have approached the problem in a different way.

1505 I think though we have to put it in the context that we lived through wholly exceptional times which no jurisdiction, let alone the Isle of Man, had had to deal with and therefore there was no template that you just lifted off the shelf that we just put into place. We had to react very quickly on an hour-by-hour basis really to try and keep on top of the problem which was evolving.

Certainly – and we have covered the ground quite extensively – there is a need to review the levels and quality of communication between the various entities, particularly between the regulators. That fundamental, I think, above all is something that has to be addressed and to be fair, it is being addressed at present.

1510 Beyond that, I cannot specifically state at this time any particular area that I would see as a serious fault that we need to improve on, but that is not to say that with the benefit of the whole picture presented to us, there will not be areas that we look at and try to sharpen up on.

1515 **Q640. The Chairman:** There are no areas though, say bank regulation, that you would foresee in the short term that we would need legislation. I know that one of the things that you have mentioned was the review of the FSC and IPA which has been on the cards for about two years, but in terms of the fundamental approach to banking regulation, it is not something you see in the immediate terms there are any changes need to be made, other than following international practice?

1520 **Mr Bell:** Yes, our aim will be to meet international standards. Those international standards are still evolving as we speak and as I have said, we have seen certain actions in the United States only this week – or last week rather – in relation to that. Undoubtedly, there will be a review of banking regulation in due course, but I think it would be not necessarily in the best interests of the Isle of Man at this stage to be precipitous in moving towards new regulations which might be out of step with how the international norms are evolving.

1530 **Q641. The Chairman:** Does the Isle of Man have any feed into that international system of banking regulations so that our concerns over some of the concerns that have been raised between the jurisdictions, between large and small jurisdictions, can at least be considered at an international level?

1535 **Mr Bell:** We do not have a very strong voice. Obviously the Isle of Man is a tiny entity, but the thing I think which gives me a bit more comfort is that the problems in a general sense, particularly about banking regulation, about communication etc, are not something which are just specific to the Isle of Man, that many other jurisdictions are going through the same debate that we are having today to modernise the supervision and regulation of their own banking industries.

1540 **Q642. Mr Lowey:** Just a final. Would the Minister not agree that the Isle of Man bats above its weight in this particular regard that imitation is the sincerest form of flattery and we are used by many international organisations as a place where, if you are looking for a small jurisdiction to get advice from, here is the place that is putting it into operation? We are a leader as opposed to... small though we may be and even that is small in the global context which you have mentioned before.

1545

1550 **Mr Bell:** Absolutely, there is no doubt at all that the Isle of Man now is recognised internationally in a way that it has never been before. We have been very active in the international arena with the OECD, with the various banking regulators round the world, with the European Union, United States. We have taken the lead on things like tax information exchange agreements and have had accolades from the OECD for the work we have done.

1555 There is no doubt at all that the Isle of Man has led the way for small jurisdictions internationally. That has been recognised and I very much hope that the Isle of Man will retain that status, it will continue to use its best endeavours, notwithstanding the fact we are a very small unit, to follow and where necessary lead international standards in providing a world-class financial services industry on the Island.

1560 **Q643. The Chairman:** Mr Bell, thank you very much for your time today, for coming down. We look forward to hearing from you about some of the points that you have agreed to follow up and no doubt as the inquiry continues you will be back to discuss more issues along the lines of the Depositors' Compensation Scheme and the Scheme of Arrangement. We look forward to having you back then.

1565 **Mr Bell:** I can hardly wait! Thank you for the pleasure.

1565 Could you just tell me when the *Hansard* will be ready so I can pick up some of these questions, particularly John's? Unless you want to give them to me directly John, I can take them back and –

**Mr Houghton:** We can either do that or arrange for *Hansard* to send you a copy.

1570 **Mr Bell:** I just do not want to give you half a story back. If you want this information, it would help if I could actually have the questions, so I can make sure you get the exact information you are looking for.

1575 **The Chairman:** We will ask the *Hansard* team to give you the log, as soon as it is ready, if that is okay.

**Mr Bell:** If you can be a bit patient then for a few days until we get that, and then we will get back to you at that point.

1580 **The Chairman:** Certainly. The Committee will now adjourn and sit in private.

*The Committee sat in private at 5.23 p.m.*