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I am writing to update you on the Government’s position on one of the recommendations in the Parliamentary Commission on Banking Standards’ final report. The Commission stated that: “It is inappropriate that those found guilty of [a new offence of] criminal recklessness should continue to benefit from remuneration obtained as a consequence of the reckless behaviour. Fines may not claw back the full amount. The Commission recommended that the Government bring forward, after consultation with the regulators and no later than the end of 2013, proposals for additional provisions for civil recovery from individuals who have been found guilty of reckless mismanagement of a bank.”

The Government agrees that those who have been found guilty of the new offence of recklessly causing the failure of a bank should not benefit financially from the actions for which they were convicted, where such benefit can be clearly identified. However, we do not believe that additional legislation is necessary to achieve this outcome, due to the existence of the Proceeds of Crime Act 2002.

Section 6 of the Proceeds of Crime Act 2002 will apply if someone is convicted of the new offence in the Crown Court, or is committed there for sentencing. Under section 6, the Crown Court must make a confiscation order if it considers it appropriate to do so, or if the prosecution asks it to make one. A confiscation order is an order depriving the defendant of the economic benefit they received from a general criminal lifestyle, or from particular criminal conduct. Consequently, there exist already wide powers for the Crown Court to ensure that persons convicted of the new offence do not benefit financially from their criminal conduct.

Of course, the Commission’s recommendations on deferral and clawback of remuneration are also important in this area - they should reduce the incentive for bankers to act recklessly in the management of their institution in pursuit of personal

financial gain. The Government and regulators have accepted these recommendations, and the regulators will be consulting on revisions to the Remuneration Code this year as to how they will be implemented. The result will be that it will be easier for banks to recoup pay from those who have been found guilty of this offence, including where pay has vested.

GEORGE OSBORNE