HM Treasury

Tom Scholar
Permanent Secretary
HM Treasury
1 Horse Guards Road
London SW1A 2HQ

020 7270 4360 / 5158
Tom.scholar@hmtreasury.gov.uk
www.gov.uk/hm-treasury

Rt Hon. Mel Stride MP
Treasury Committee
House of Commons
Committee Office
London
SW1A 0AA

[By email]

29 March 2022

Dear Mr Stride

Thank you for your letter of 16 March.

I attach a note with answers to the specific questions you raise.

Yours sincerely,

Tom Scholar

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General questions

1. *In your letter to the Committee, you stated that "HM Treasury has fully engaged in the cross government ministerial fraud board, established and initially chaired by Lord Agnew, and has supported its work in developing post event assurance plans". Can you outline the specific interventions that HM Treasury made as a result of this forum? (Q16)*

   The Covid-19 Fraud Ministerial Board first met in July 2020. It was a useful forum for discussion and a focal point for the British Business Bank (BBB), BEIS and HMT in our collective work to strengthen counter-fraud measures in the implementation of the Bounce-Back Loan Scheme (BBLS). Beyond general quality assurance of this work the following specific measures were taken following discussions at the Board: additional funding for the data analytics programme of the Government Counter Fraud Function (GCFF); additional funding for the National Investigation Service (NATIS); the introduction of the HMRC Turnover Verification Check; and greater use of detailed counter-fraud network analysis from Quantexa, a network data platform that analyses connections between high fraud risk businesses and named individuals, helping lenders to identify high risk fraud cases. At the same time several other measures were taken to tackle fraud which were not discussed at the Board (for example, the introduction of a number of additional checks – such as the duplicate loan check, the change of director flag and a newly incorporated company flag – as well as the establishment of the regular lender forum).

2. *In oral evidence before the Committee, Lord Agnew suggested that there should be a Minister for Counter Fraud across Government. What is the HM Treasury view on this? (Q27 and Q37)*

   The Treasury fully supports action to tackle fraud, and last week announced £48.8 million of new funding over three years to support the creation of a new Public Sector Fraud Authority and enhance counter-fraud work at the BBB and NATIS. The investment enables government and enforcement agencies to step up their efforts to reduce fraud and error and bring fraudsters to justice, and will recover millions of pounds.

   The new Authority will report jointly to the Treasury and the Cabinet Office, and its work will be overseen by Ministers from both departments. The distribution of Ministerial portfolios is a matter for the Prime Minister.

Scheme implementation

3. *In your letter to the Committee, you outlined four of the recommendations from the PwC report relating to the Bounce Back Loan Scheme pre implementation. Can*

you provide the full list of recommendations, including those which the Government decided not to accept? (Q3)

- *Can you provide the reasons as to why each recommendation was accepted or rejected? (Q3)*

The list of four recommendations set out in the previous letter was the full list of recommendations received from PWC ahead of the launch of the Scheme on 4 May 2020. The government accepted all four, implementing three of them at the launch of the scheme and the fourth as soon as possible afterwards.

4. *In evidence before the Committee, Lord Agnew referred to the Credit Industry Fraud Avoidance System (Cifas) database, which is a not-for-profit fraud database that is used very widely across the lending landscape in this country but was apparently not used as part of the Bounce Back Loan scheme. Why was this database not used? (Q3)*

   The CIFAS database was used by lenders from the outset. From day one, the Guarantee Agreement required lenders to check applications against a reputable fraud bureau (such as CIFAS), and the BBB's audit assurance programme reviews lenders' performance against this obligation. And work started immediately with CIFAS to build a bespoke database for lenders to check whether an application they had received was a duplicate of another by the same borrower at a different institution. A duplicate application check was introduced on 26 June 2020. The time to build the system to support this reflected the scale of the task, with over 1 million data points from more than 20 lenders.

5. *In evidence before the Committee, when discussing the Counter Fraud function within the Cabinet Office, Lord Agnew stated that "[t]hey were never consulted in the establishment of the bounce-back loan scheme". Can you confirm whether this was the case and, if it was, outline why HM Treasury decided not to consult the Counter Fraud function? (Q3)*

   The BBB engaged PWC to provide specialist advice on counter-fraud measures in the design and implementation of the Scheme. PWC have expertise in tackling financial services fraud, and have undertaken numerous fraud investigation and prevention activities for both the government and financial services institutions, giving them specialist insight into both government counter-fraud activity and how banks operate counter fraud systems.

   The BBB had engaged PWC to provide advice on setting up the operations centre for the Coronavirus Business Interruption Loan Scheme (CBILS), so the BBB already had a working relationship with their fraud risk detection and management team, and PWC had close working knowledge of the government loan schemes and their operations. This existing relationship and expertise enabled PWC to move rapidly to advise HMG on fraud ahead of the launch of the Scheme, following consultation with the counter-fraud experts of the main lenders. Their advice drew on the Cabinet Office Fraud Counter-measures toolkit, and their findings informed the core controls put in the guarantee agreement ahead of the scheme launch.

The GCFF was not involved ahead of the launch of the scheme, since counter-fraud expertise was provided by PWC, but was involved in discussions on implementation of potential counter-fraud measures immediately after the launch, attending the first meeting with the lenders on 6 May 2020 and the regular forums subsequently.

6. *In oral evidence before the Committee, Lord Agnew stated that "going back to when the bounce-back loans were being created, the counter-fraud team wrote to Treasury with some suggestions on how to improve the construction and the letter was ignored." Is that accurate, and if so, can you outline why HM Treasury did not take up these suggestions? (Q31)*

We have not been able to identify the specific letter referred to here, but can confirm that the Government Counter-Fraud Function has played an important role in supporting counter-fraud efforts in the implementation of the scheme. As soon as it was launched, the GCFF was engaged in discussions on further counter-fraud measures, starting with the first post-launch meeting between lenders and the BBB and PWC on 6 May 2020. There was then regular engagement with the GCFF, including on their suggestions for additional counter-fraud measures. These led to the introduction of several additional fraud risk indicator screenings for lenders: the change of director flag to prevent fraudsters from exploiting pre-registered companies (introduced in July 2020); a newly incorporated company flag (introduced in November 2020), turnover figures from businesses with HMRC tax records (introduced in December 2020) and post-event assurance controls such as a bulk dissolution objection process that prevents businesses with an outstanding government loan liability from striking off from the Companies House register until lenders have had a chance to investigate (introduced in March 2021 for BBLS). The GCFF also provide input and recommendations on the BBB's fraud risk assessments and post-event assurance plans through the regular governance forums. Finally, as outlined above, the GCFF data analytics outputs are run on the loan books to identify facilities for investigation by lenders.

In November 2020 the GCFF submitted some suggestions for changing the scheme design in various ways, including subjecting borrowers to 'Enhanced Due Diligence'. These were not compatible with the central features of the scheme design – a scheme based on a simple, quick, standard form for businesses to fill in, with loans for most firms arriving within 24 hours of approval – so they were not taken forward. (Similar options to change the basic scheme design had already been considered in the early days of the scheme, following feedback from PWC and the main lenders.)

7. *During the evidence session, Lord Agnew suggested that additional credit and affordability checks on the Bounce Back Loan scheme would not have resulted in significant delays to loans being issued. Does the Treasury accept that statement? What additional checks did the Treasury consider carrying out? What was the rationale for removing these checks from the application process? (Q75)*

   The government had already introduced a loan guarantee scheme incorporating standard credit and affordability checks – the Coronavirus Business Interruption Loan Scheme (CBILS).

   Credit and affordability checks typically include credit bureau checks, credit scoring, checks on whether borrowers have had County Court Judgements and requests for documents to check the health of the business (such as management accounts, business plan, historic accounts, business assets). These can be time-consuming for both lenders and borrowers – particularly smaller businesses – in normal times. In the exceptional uncertainty of the early days of the pandemic, it was extremely challenging for businesses to complete the necessary paperwork, particularly for first-time borrowers with no credit history or borrowers without detailed financial records. The consequence was significant delays in loan approvals, with many loan applications unable to be processed given the extensive information being requested.

   Following the launch of the CBILS scheme there was very strong and widespread feedback that there were unacceptable delays in getting loans to small businesses sufficiently quickly, with reports of processing times of CBILS applications of up to three weeks or more. A survey conducted by the Association of Chartered Certified Accountants in mid-April 2020 found that one-third of businesses surveyed (translating to approximately 2 million across the entire UK business population) would probably not be able to access enough cash to last more than two weeks of lockdown.

   The government made changes to CBILS to simplify the loan application process, but feedback continued to suggest more was needed. Faced with widespread calls for a scheme that would give lenders the confidence to lend very quickly to smaller businesses – and enable businesses to obtain finance in time to survive – the government engaged with business, lenders and other stakeholders, who made clear that this would require the removal of standard credit and affordability checks, and a 100% government guarantee (following the 100% guarantee schemes already introduced in other countries). It was clear from the outset that, even with mitigation steps, the residual risk of fraud and error would be very high. The BEIS Accounting Officer and the Board of the BBB required written Ministerial direction to proceed with the scheme. The Secretary of State for BEIS provided this direction, noting the government's judgement that these risks were outweighed by the need to get support to small businesses as quickly as possible.

8. *Is it correct that the design of the Bounce Back Loan scheme permitted loans to companies that were not trading at the time of the COVID-19 pandemic? If so, what was the rationale?*

   The scheme did not permit loans to businesses that were not established before the pandemic. Businesses had to be established on or before 1 March 2020 to be eligible.

   Because of the widespread economic restrictions during the pandemic, some businesses ceased trading temporarily – but as long as these businesses had been established by 1 March 2020 and met the other eligibility requirements for the scheme, they were permitted to apply for a loan.

   A distinction should also be made between the date of establishment of a business and of a company carrying out that business. Some businesses operating on or before 1 March 2020 as sole traders and partnerships chose to incorporate subsequently. A legitimate business which changed its legal form in this way was still eligible for the scheme.

Scheme monitoring

9. *Is there a data dashboard which could be used to monitor the performance of the Bounce Back Loan Scheme? If so, has the Treasury had access to it? (Q9) If not, are there plans to create a dashboard with the Treasury having access to it? (Q43)*

   Extensive data on the performance of the scheme has been collected since the outset of the scheme and is presented at the monthly Covid-19 Loan Scheme Counter-Fraud Strategy Board which is attended by officials from HMT, BEIS, and the GCFF, along with the BBB. This data has been steadily refined and improved over time. This information informs ongoing discussions about fraud within the scheme and the corresponding counter-fraud work programme being advanced by both government agencies and lenders.

10. *Does HM Treasury have oversight of the number of Bounce Back Loans which were transferred from company bank accounts into the private bank accounts of the owners of those companies? If so, please provide details of the number of loans and amounts involved. (Q10)*

11. *Does HM Treasury have oversight of the number of Bounce Back Loans which were paid into company accounts and then subsequently left the country? If so, please provide details of the number of loans and amounts involved. (Q10)*

12. *How many Bounce Back Loans were advanced to businesses that were already in default of existing bank loans between 1 June and 30 June? (Q32)*

13. *What information is held by the Treasury on how much of the £47 billion that went out under the Bounce Back Loan scheme was used by banks to reduce their own loan balances within a few weeks of the money arriving? (Q57)*

The BBB does not hold the data requested in questions 10-13. Lenders were required to have established fraud monitoring controls in respect of the scheme (and the BBB's audit and assurance programme verifies this), but there could be legitimate reasons for each of these activities. For example, a borrower might transfer funds into a personal account (Q10) to pay business bills through direct debits already set up on that account; or transfer funds overseas (Q11) to pay an overseas supplier; or refinance more expensive borrowing (Q13) to improve cashflow and increase the chances of business survival. But while these activities are not inherently fraudulent there could of course be fraudulent cases, which lenders and enforcement agencies will pursue.

Businesses applying for loans had to certify that they were not: subject to a debt relief order or an individual voluntary arrangement; an undischarged bankrupt; or in liquidation. The eligibility criteria for the scheme did not ban businesses in default on other existing loans from seeking a Bounce Back Loan (Q12).

14. *In evidence, Lord Agnew referenced a data analytics contract held by the British Business Bank which is due to expire in March 2022 but is not being renewed by HM Treasury. Can you outline the rationale for not renewing this contract? (Q64)*

We take this to be a reference to the data analytics work carried out by the GCFF for HMG and the BBB, using data from Companies House, law enforcement, HMRC and other public sources to identify fraud risk indicators, or 'flags'. This information is passed to lenders, who are then expected to investigate loans flagged as high risk and take action as necessary.

The Treasury fully supports this work, having provided £1.1m of initial funding for 2021-22. The data analytics work is now being scaled up, with an additional £9m for 2022-23 onwards announced last week as part of the Spring Statement.

15. *During the evidence session, Lord Agnew referred to a decision not to publish a list of recipients of Bounce Back Loans due to commercial sensitivity. Is that correct, and if so, can you provide the rationale behind the decision? (Q74 and Q128)*

Various legal, contractual and commercial issues need to be considered in relation to any release of loan recipient data, bearing in mind for example that many borrowers are in compliance with the terms of the schemes and are repaying their lenders.

The BBB have published borrower-specific information for the biggest business support schemes – including all loans under CLBILS, and approximately 39% of loans under CBILS and 3% of loans under BBLS (under the applicable reporting requirements). The BBB, in consultation with BEIS and HMT, have decided that publication is not appropriate for the remaining borrowers under CBILS and BBLS. Such a list would include a substantial amount of personal data (where businesses trade under the names of their proprietors). Data protection legislation places restrictions on the processing of personal data and the BBB consider that publishing of a list of all businesses receiving such a loan would breach these requirements. There would also be a risk of detriment to legitimate businesses' commercial interests. Other considerations include a significant risk of increased criminal activity arising from a mass release of this data.

The BBB's decision has been challenged and the Information Commissioner (ICO) has upheld their position (with this decision itself now subject to appeal at the First Tier Tribunal). The ICO decision notice can be found here:
https://ico.org.uk/media/action-weve-taken/decision-notices/2021/4019294/ic-66308-p4m4.pdf.

16. *During the evidence session, Lord Agnew suggested that the British Business Bank should be regulated by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA), rather than by BEIS. Is this something that HM Treasury has considered, and is it an idea that has merit? (Q80)*

This was considered when the BBB was established in 2014. But the PRA only regulates deposit-taking banks, and the BBB does not and was never intended to take deposits. As for FCA regulation, the government's view is that as a public body the BBB is more appropriately overseen by BEIS as an Arms-length body, and that this arrangement better reflects its role as a government development bank, as opposed to an independent private sector financial services provider.

State guarantee

17. *From what date could payments to lenders under the state guarantee be made? Does the Treasury accept that significant numbers of claims under the state guarantee are likely to be made "in the next few weeks"? (Q 42)*

Guarantee claims are submitted on a quarterly basis, with the next batch due at the end of March, and subsequent batches at the end of June, September and December. Guarantee claims can be submitted by lenders to the BBB once a loan enters default and the lender has demanded the full outstanding balance (default generally occurs after at least 90 days of non-payment).

As of February 2022, 3% of BBLS facilities have resulted in a guarantee claim, with a further 4% currently in default. While some of these loans may be repaid, some will translate to guarantee claims in the coming months.

Once guarantee claims are made they are reviewed by the BBB and subjected to checks and reconciliation processes. To date, £1.6bn has been claimed by lenders under the Scheme, of which £203m has been paid by the BBB.

18. *What requirements does the Treasury place on a lender to show evidence of (i) due diligence applied when approving a loan application, and (ii) attempts by the lender to recover the sum lost to fraud, before the Treasury will honour the state guarantee? (Q11, Q43 and Q 109)*

Requirements and expectations for lenders in terms of recoveries are set out in the BBLS Guarantee Agreement and a more detailed document on recoveries. The BBB's ongoing lender audit assurance programme provides insight into the effectiveness and adequacy of recoveries efforts by lenders. Where issues are identified the Bank can take remedial action ranging from creating an action plan with the lender's management team through to cancellation of a guarantee.

The BBB has not published these principles, and do not consider it to be in the public interest to do so. The principles contain significant details about the recovery process: publishing them would hinder lender recovery efforts and increase the risk to the taxpayer.

19. *What is the value of state guarantee payments on failed Bounce Back loans to date, and can these figures be broken down by type of loss, including fraud loss? (Q43)*

The latest available figures (February 2022) are as follows:

- Total guarantee claims paid by the BBB to lenders: 6,176 facilities worth £203m
- of which, number flagged as suspected fraud: 1,860 worth £73m.

There is likely to be a front-loading effect here, in that the proportion of this tranche of loans suspected as fraudulent is significantly higher than the estimated fraud rates for the scheme as a whole. This is because fraudulent loans are expected to default immediately, whereas credit losses will be spread over the life of the book as many borrowers will make some repayments even if they are ultimately unable to repay their loans in full.

Enforcement

20. *What efforts to recover sums lost to fraudulent use of the Bounce Back Loan scheme does the Treasury envisage would be funded by banks, and what efforts would be funded by the taxpayer? (Q43)*

Lenders are primarily responsible for seeking recoveries on defaulted loans – drawing on their relationship with the borrower and building on their extensive commercial expertise of recovering loans to SMEs. Lenders can deduct reasonable recovery costs from funds returned to government. Where lenders suspect criminal activity, the loans are passed on to law enforcement agencies such as NATIS. Last week the Treasury announced an additional £13.2mn for NATIS to double their investigate capacity on Bounce Back Loans. The Treasury has also provided an additional £10.9m to the BBB for their counter-fraud and lender assurance work.

21. *In your letter to the Committee, you referred to the National Investigation Service and the 49 arrests made. During the evidence session, Lord Agnew suggested that there could be 100,000 possible fraud cases. Does the Treasury believe that this figure is realistic? (Q21 and Q124)*

In cases of suspected fraud, the approach taken will depend on the severity of the offence. Most cases are likely to be smaller scale fraud and error, to be addressed through commercial recovery processes by the lenders and/or civil sanctions by the Insolvency Service, such as director disqualification or winding up in the public interest.

The most serious cases are passed to law enforcement agencies for criminal enforcement (212 identified to date). These cases are often highly complex, and it takes time to gather the evidence to support a prosecution. An arrest is only possible after significant preliminary work. To date, NATIS have launched enforcement activity in 43 cases, worth £68m, and made 49 arrests. We expect these numbers to rise as these investigations are completed, and as further cases are opened. The Treasury has provided NATIS with an additional £13.2m to support this work.

The total number of likely fraudulent cases will include those already subject to both civil and criminal enforcement activity, those identified by lenders as suspected fraud which are being investigated further, and those where the fraud is yet to come to light. Our information is still far from complete, since we are in the early days of repayments under the scheme: no repayments were due for the first 12 months; all borrowers had a right to an additional repayment holiday of 6 months; a lender would generally only regard a loan as in default after at least a further 3 months of non-payment; and in some cases further time is needed to establish the likelihood of fraud. The monthly repayment data, quarterly data on claims and continuing work on fraud indicators is gradually making the picture clearer. For the moment, the latest information suggests an estimate of fraud occurrence in the Scheme of 7.5% (£3.3bn). Applying this 7.5% estimate to the number of loans issued under the Scheme would suggest a number of cases of this order of magnitude over the lifetime of the scheme. BEIS and the BBB are working to improve their understanding of the links between the fraud risk indicators, fraud occurrence and fraud loss, which will help to refine these estimates. As more repayment data becomes available, it should be possible to make more accurate estimates of the extent of likely fraud loss for different fraud typologies.