



HM Treasury

# Aligning the ring-fencing and resolution regimes

## **Call for Evidence**

March 2023

# Aligning the ring-fencing and resolution regimes

## **Call for Evidence**

---



© Crown copyright 2023

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at: [www.gov.uk/official-documents](https://www.gov.uk/official-documents).

Any enquiries regarding this publication should be sent to us at [public.enquiries@hmtreasury.gov.uk](mailto:public.enquiries@hmtreasury.gov.uk)

ISBN: 978-1-915596-67-3, PU 3287

# Contents

<b>Foreword</b>	<b>5</b>
<b>Chapter 1 Introduction</b>	<b>7</b>
<b>Chapter 2 Purpose of the Call for Evidence</b>	<b>9</b>
<b>Chapter 3 Future benefits of the ring-fencing regime</b>	<b>11</b>
<b>Chapter 4 The costs of the ring-fencing regime</b>	<b>15</b>
<b>Chapter 5 Long-term options for aligning the ring-fencing and resolution regimes</b>	<b>17</b>
<b>Chapter 6 The spectrum of options</b>	<b>19</b>
<b>Chapter 7 Responding to this Call for Evidence</b>	<b>21</b>
<b>Annex A The UK's resolution and supervisory regimes</b>	<b>24</b>
<b>Annex B Full list of questions for respondents to consider</b>	<b>29</b>

# Foreword

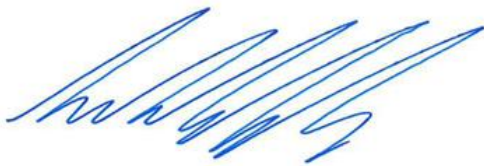
In launching the Edinburgh Reforms, the Chancellor set out a bold vision for an open, sustainable and technologically advanced financial services sector that is globally competitive and acts in the interests of communities and citizens. This is a vision that will create jobs, support businesses and power growth across all four nations of the United Kingdom.

A central pillar of the Edinburgh Reforms was a commitment to a competitive marketplace promoting effective use of capital and, within this, a commitment to the updating of the ring-fencing regime for banks in response to the findings of the statutory independent review chaired by Sir Keith Skeoch (the Skeoch Review). Indeed, the Chancellor announced he would be taking forward a series of near-term measures proposed by the Skeoch Review in secondary legislation to improve the functionality of the existing ring-fencing regime. He also announced plans to consult on raising the deposit threshold above which firms would be required to enter the regime from £25 billion to £35 billion. These measures will quickly improve the functionality of the regime while moving some firms out of scope entirely.

The Skeoch Review also raised a wider question about the coherence of the broader legal framework that seeks to mitigate the risks to the United Kingdom's financial stability posed by banks. In particular, the Review noted that the ring-fencing and resolution regimes for banks, both established in the aftermath of the Global Financial Crisis, were seeking to address the same problem of "too big to fail" and questioned whether the two regimes are effectively aligned. This Call for Evidence represents the government's first step in a careful and considered process to reflect on this issue and potential solutions.

The government recognises that consistently high regulatory standards serve as one of the foundations upon which the UK's success as a financial services hub is built and is fully committed to protecting and maintaining the UK's financial stability with appropriate regulation.

This Call for Evidence is not about unlearning lessons, it is asking a question – at the prompting of the independent Skeoch Review – as to what degree of regulatory evolution may be appropriate and could be achieved without unduly increasing risks to the UK’s financial stability. The government does not take the significance of this question lightly, which is why we are embarking on a process that will allow for careful consideration of the evidence. I warmly invite all interested stakeholders to use this Call for Evidence as an opportunity to share their views.



**Andrew Griffith MP**

**Economic Secretary to the Treasury**

# Chapter 1

## Introduction

1.1 Following the global financial crisis of 2007-08 (GFC), HM Treasury established the Independent Commission on Banking (ICB) to consider structural and wider reforms that would promote financial stability and competition within the UK banking market.

1.2 In 2011, the ICB reported back and provided the government with a package of recommendations. One of the most substantive recommendations was the establishment of a ring-fencing regime for banks in the UK. The regime was legislated for in the Financial Services (Banking Reform) Act 2013 (FSBRA) and came into full effect on 1 January 2019 with UK banks with more than £25 billion of “core deposits”<sup>1</sup> required to legally separate their retail banking services. As well as providing the statutory footing for the regime, FSBRA also set out a requirement for the government to commission an independent review of the regime within two years of it coming into full effect. This review, undertaken by a panel of independent experts led by Sir Keith Skeoch (the Panel), launched in February 2021 and delivered its final report in March 2022.<sup>2</sup>

1.3 The final report included seven recommendations related to the ring-fencing regime. Six of these recommendations (the near-term recommendations) proposed alterations to the regime that the Panel judged would improve the operation of the regime in a fashion that was beneficial to the banking industry and their customers, without undermining the UK’s financial stability, with five of these directed at HM Treasury and one at the Bank of England (“the Bank”).

1.4 On 9 December 2022, the government published its response to the five “near term recommendations” for which it was responsible. Specifically, it announced its intention to consult, in mid-2023, on near-term reforms to improve the functionality of the ring-fencing regime and on plans to increase the deposit threshold from £25 billion to £35 billion.<sup>3</sup>

1.5 The other recommendation (“recommendation 2”) was a longer-term recommendation for HM Treasury to “review the practicalities of how to align the ring-fencing and resolution regimes”. The Panel noted

---

<sup>1</sup> A core deposit is defined in article 2(2) of the Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014/1960 as a deposit held with a UK deposit-taker in a UK account or EEA account, except where one or more of the accountholders meets certain criteria.

<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1060994/CC50821108226-006\\_RFPT\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1060994/CC50821108226-006_RFPT_Web_Accessible.pdf)

<sup>3</sup> [Government response to the independent review on ring-fencing and proprietary trading](#), 9 December 2022

that both regimes are trying to tackle the same issue of “too big to fail” and judged that the resolution regime is now overtaking the ring-fencing regime as a more comprehensive and dynamic approach to this issue. With this in mind, the Panel suggested that an effective way of aligning the two regimes may be to introduce a new power that would enable the authorities to remove banks from the ring-fencing regime when they are judged to be resolvable. However, the Panel were also clear that the government should, by conducting a review of the practicalities of such an approach, ensure that doing so would not result in the weakening of wider powers, tools or policies that contribute to the maintenance of the UK’s financial stability.

**1.6** This Call for Evidence is the first stage in the government’s response to this recommendation. It focuses on the practical challenge of how the two regimes might be better aligned with each other and the wider regulatory framework, without any increase in risk to the UK’s financial stability. The Call for Evidence is seeking views to inform two judgements. Firstly, an assessment of the ongoing benefits that ring-fencing provides to financial stability not found elsewhere in the regulatory framework. Secondly, and subject to that, what steps can be taken to better align the regimes without losing financial stability benefits or over burdening firms with new, alternative, regulatory requirements.



# Chapter 2

## Purpose of the Call for Evidence

2.1 In recommending the creation of a ring-fencing regime, the ICB envisaged that such a regime could “curtail government guarantees,” “make it easier to sort out both ring-fenced banks and non-ring-fenced banks which get into trouble, without the provision of taxpayer-funded solvency support” and “insulate vital banking services on which households and SMEs depend from problems elsewhere in the financial system.”<sup>4</sup> In broad terms, it was these benefits that the government sought to deliver through its design and implementation of the ring-fencing regime.

2.2 The Skeoch Review has raised a question as to whether these benefits are likely to endure to the same extent given the wider advances in the regulatory framework, in particular the development of the resolution regime. It concluded that the resolution and ring-fencing regimes are broadly seeking to address the same risk to the United Kingdom’s financial stability – “too big to fail” - and that the resolution regime has developed into a fuller and more comprehensive mitigant of this.

2.3 The government broadly agrees with this conclusion, in particular, that the resolution regime is best positioned to ensure the continuity of critical economic functions and manage a firm failure, across both ring-fenced bodies (RFBs) and non-ring-fenced bodies (NRFBs), without recourse to public funds. However, while the panel also identified ongoing benefits derived from the ring-fencing regime to the effectiveness of both the resolution regime and the supervisory regime, it did not seek to provide a deep assessment of their significance.

2.4 The Government believes that in considering whether the ring-fencing regime is appropriately aligned with the resolution regime, and if there are ways to improve this alignment, it must fully consider the materiality of these benefits to both resolution and supervision and whether there are further benefits that the panel did not identify. As set out above, the first part of this Call for Evidence seeks to inform this assessment.

---

<sup>4</sup><https://webarchive.nationalarchives.gov.uk/ukgwa/20120827143059/http://bankingcommission.independent.gov.uk/>

2.5 Subject to that assessment, the second part of the Call for Evidence seeks to inform future choices on options for long-term alignment of the ring-fencing regime with the wider regulatory framework and in particular the resolution regime. The government is fully committed to addressing the problems of “too big to fail” identified by the ICB and maintaining the United Kingdom’s ongoing financial stability and – consistent with the objectives of the resolution regime – will not take policy decisions resulting from this Call for Evidence that serve to adversely impact outcomes for:

- protections of public funds
- continuity of banking services and critical functions
- protections of depositors

2.6 The government is also conscious that an attempt to bring firms out of scope of the regime may provide little benefit to these firms, or to competition within the UK banking market, if it is accompanied by new regulatory requirements designed to maintain material financial stability benefits. Therefore, the government will work closely with the regulators on the implications for their own policies and objectives.

2.7 For the purposes of this Call for Evidence, the government is taking the resolution regime as a given and is not seeking views on changes to it.

# Chapter 3

## Future benefits of the ring-fencing regime

3.1 The government is satisfied that the statutory frameworks underpinning the resolution and supervisory regimes are separate from the ring-fencing regime and they could continue to operate in its absence. However, the resolution and supervisory regimes have developed alongside the ring-fencing regime and despite their separate legislative frameworks, there may be interdependencies that should be considered. For example, the government notes that the capital requirements framework is linked to the ring-fencing regime through the 'other systemically important institutions' (O-SII) buffer, which currently applies to ring-fenced banks and large building societies.

3.2 The benefits set out below may not be complete, but they reflect the benefits identified by the Panel as well as putative benefits identified either by the authorities or stakeholders and that the government wishes to examine further through this Call for Evidence. The government also welcomes reflections from stakeholders on further benefits that may not be captured below.

### Resolution

#### Post-Resolution Restructuring

3.3 The Panel found that ring-fencing has the potential to facilitate resolvability in so far as it could reduce the time and cost of the post-resolution restructuring process. They judged that the ring-fencing regime theoretically provides the optionality to handle different parts of a failed bank separately. It could also increase the value for buyers interested in purchasing a RFB's assets and liabilities, on the basis that buyers may be less likely to take retail assets and deposits that are in the same legal entity as the 'bad assets' that caused a failure. However, the Panel also noted that this is limited to a "narrow set of scenarios," where the failure of a bank was caused by activities taking place within the NRFB alone, and argued that the benefit was time-limited given the development of the Resolvability Assessment Framework and the associated requirement for firms to prepare for restructuring in the event of a resolution in any case. The government would welcome views on the Panel's conclusions here.

## Operational Continuity

3.4 A further benefit the government considers worth highlighting, although not touched on by the Panel, is the potential advantage it provides to operational continuity in resolution. An RFB is required to be operationally independent and limited in the services which it may receive from the broader group. As such, during a resolution, the RFB should be insulated against any failing of service provision across the broader group, thus to some extent simplifying the resolution process. However, it should also be noted that, the Prudential Regulation Authority's (PRA) rules and expectations on "Operational Continuity in Resolution" contain some similar requirements, in addition to the ring-fencing regime.

## Certainty

3.5 Ring-fencing provides clarity and certainty upfront as to when a firm will be required to restructure its business. In comparison to a regime where ring-fencing does not exist, the authorities might need to make a firm-specific assessment of what changes may be necessary and review this assessment over time. The ex-ante structures imposed by the ring-fencing regime could therefore have contributed to providing certainty for firms representing a further benefit of the ring-fencing regime.

## Depositor Confidence

3.6 It is also possible that in the case of a crisis, depositor confidence may be enhanced by the existence of the ring-fence. This may be particularly meaningful for those depositors not covered by the Financial Services Compensation Scheme (FSCS) but also more generally to depositors at times of stress, irrespective of eligibility for FSCS protection.

## An "Insurance Policy"

3.7 Subsequent to the publication of the Panel's final report, some stakeholders have also argued that the ring-fencing regime acts as an insurance mechanism against the relatively untested nature of the resolution regime. This would manifest itself if a firm were to fail and the resolution regime was insufficient to manage the problem. In such a case, the structural separation of the RFB would mean that the retail bank was protected in the case of a stress arising from the NRFB, or vice versa. However, as the Panel noted, the critical economic functions provided by banks extend beyond their retail banking arm, meaning that ring-fencing may only provide partial "insurance."

## Supervision

### Business Models and Products

3.8 The Panel noted that RFBs' assets are predominantly made up of mortgages and commercial loans, while retail customer deposits

account for most of their liabilities. These represent relatively simple business models and products that are well understood and relatively easy to track. As such, RFBs may be easier to supervise than institutions with complex business models and products.

## Governance Arrangements

3.9 The requirement for separate governance arrangements between RFBs and NRFBs seeks to ensure that RFB boards have strong and focused leadership. The Panel found that, in doing so, this provides assurances that Board members understand their business and associated risks.

## Bespoke Supervisory Processes

3.10 The Panel also found that as a result of their structural separation, RFBs are subject to a higher level of scrutiny than would otherwise be applied. For example, enhanced reporting requirements and individual requirements to hold key supervisory documents such as the Internal Capital Adequacy Assessment Process and Internal Liquidity Adequacy Assessment Process documents. Furthermore, the Panel noted that structural separation also allows for stress testing to be undertaken, in future, at the sub-group level. They judged that this in turn should allow supervisors to make a more granular assessment of risks on the balance sheet of a RFB, and their individual resilience to stress scenarios. The 2022 annual cyclical scenario will, for the first time, assess the ring-fenced subgroups of the existing participating banks on a standalone basis, where these differ materially from the group as a whole.<sup>5</sup>

## Additional capital buffers

3.11 Core retail customer and small business banking services play a particularly sensitive role within the economy, notwithstanding other important activities undertaken by banks. The aim of ring-fencing is to protect core retail banking services from shocks originating elsewhere in the group and in global financial markets. It may therefore be desirable to have some extra capital associated with these services. The ring-fencing regime is one way to achieve this. RFBs and large building societies are subject to an O-SII buffer, while banking entities outside the ring-fence have their activities capitalised in accordance with the UK's implementation of global standards. As set out by the Financial Policy Committee (FPC), the O-SII buffer raises the capacity of these banks to withstand stress, thereby increasing their resilience, and so continue to maintain critical financial services to the real economy, particularly the provision of credit. This capital buffer reflects the

---

<sup>5</sup> [Stress testing the UK banking system: key elements of the 2022 annual cyclical scenario | Bank of England](#)

additional damage that these banks could cause to the UK economy if they were close to failure.<sup>6</sup>

## Further Benefits

### The “Ring-Fencing Bonus”

3.12 Recent work originating from Warwick Business School researchers that considers the impact of structural separation on interest rates in the UK repo market, has found evidence that banking groups subject to ring-fencing are perceived to be safer with ring-fenced dealers able to borrow in the overnight repo market at lower rates than other dealer banks. They further conclude that such a “ring-fencing bonus” is reinforced in times of market stress.<sup>7</sup>

### Potential International Benefits

3.13 Finally, the implementation of the ring-fencing regime in the aftermath of the GFC sets the UK apart from competitor jurisdictions who stopped short of full structural separation. As a clear example of the UK’s ongoing commitment to strong regulation, and a safe and sound market in which to invest, this may yield further benefit in promoting the UK’s position as a global financial services hub and be a part of maintaining UK markets’ safe openness.

#### Box 3.A Questions for respondents

1. Do stakeholders consider that some, or all, of the identified benefits of ring-fencing to resolution materially assist in planning for resolution?
2. Do stakeholders consider that some, or all, of the identified benefits of ring-fencing to resolution materially increase the prospect of a firm failure being effectively managed?
3. Do stakeholders consider that some, or all, of the identified benefits of ring-fencing to the supervisory regime materially reduce the risk of firm failure by facilitating more effective risk management and supervision?
4. Are there any further material benefits that ought to be taken into account when considering the long-term future of the ring-fencing regime?

---

<sup>6</sup> When the FPC instituted this framework in 2016 it judged that the size of a bank’s O-SII buffer should specifically reflect the greater costs to the economy if that bank fell into distress relative to a smaller, non-systemic bank. The FPC considered that the main channel by which distressed banks could cause damage to the financial system and real economy was through contraction of their household and corporate lending. See: [Amendments to the FPC’s framework for the O-SII buffer](#).

<sup>7</sup> Erten, Irem and Neamțu, Ioana and Thanassoulis, John E., The ring-fencing bonus (October 21, 2022). Bank of England Working Paper No. 999, Available at SSRN: <https://ssrn.com/abstract=4256749> or <http://dx.doi.org/10.2139/ssrn.4256749>.

# Chapter 4

## The costs of the ring-fencing regime

### Operational costs

4.1 The Panel invited evidence from banks on the ongoing costs associated with the regime in two broad categories – operational costs, and other costs that included loss of profit from reduced business opportunities; capital, liquidity and balance sheet limitations; and collateral and hedging inefficiencies. However, the Panel was unable to aggregate these costs “due to the variation in types and scale of these costs and the subjective nature of some items” in such a way that provides a definitive conclusion. Nonetheless, the Panel estimated that annual aggregate ongoing costs for banks as a result of the application of the ring-fencing regime could be in the region of £1.5 billion, broken down as £0.5 billion for operational costs, and £1 billion for other ongoing costs.

4.2 The government notes that the implementation of the Panel’s six near-term recommendations, which will include some firms being removed from the ring-fencing regime and allowing firms to expand their activities in some areas, will likely reduce this annual aggregate cost to industry. Nonetheless, the government does not underestimate the impact of ongoing costs to industry, and ultimately banking customers, and intends to weigh these carefully against potential benefits of the regime while noting that further regulatory reform in this area will likely carry costs of its own.

### Impacts on competitiveness

4.3 The Panel considered a range of arguments regarding the impact of the ring-fencing regime on UK competitiveness. In particular, they reflected on the increased NRRFB funding costs, the challenges of UK NRRFBs maintaining market share and the issue of regulatory arbitrage within the UK banking sector.

4.4 The Panel did not consider there to be significant evidence to suggest that, to date, ring-fencing has had an adverse effect on the growth and competitiveness of NRRFBs but noted that evidence may emerge over time as the regime further embeds itself and the macro-economic environment evolves. Furthermore, the Warwick Business School research referred to above, looking specifically at short-term repo funding, has not found any economically meaningful increase in fundings costs for NRRFBs. The government is not seeking to repeat the Panel’s analysis but, noting the timebound nature of the Panel’s work

and subsequent changes in macro-economic conditions, would like to provide stakeholders with the opportunity to raise any evidence they have identified subsequent to the Panel's analysis concluding.

## **Impacts on competition**

4.5 The Panel considered the impacts of ring-fencing on competition within the UK retail banking market, the UK mortgage market and the corporate lending and productive finance markets and concluded that the impact of the regime across these markets was marginal, if impactful at all. The Panel's final report elaborates in detail on their findings and the government invites stakeholders who have new evidence that may challenge these findings to do so in their response to this call for evidence.

### **Box 4.A Question for respondents**

5. Do stakeholders have any comments on the costs, including opportunity costs, associated with the ring-fencing regime once it has been modified by the implementation of the "near-term recommendations"?



# Chapter 5

## Long-term options for aligning the ring-fencing and resolution regimes

5.1 In Chapters 3 and 4, the government is seeking views from respondents to inform an assessment of the ongoing benefits that ring-fencing provides to financial stability not found elsewhere in the regulatory framework, and of the costs of ring-fencing. Subject to this assessment, the government can consider options for better aligning the ring fencing and resolution regimes in the long-term.

5.2 The government recognises that in identifying a preferred option, it will have to consider these options against a variety of criteria so as to fully take into account the complete range of stakeholder and public policy interests.

5.3 The government is proposing to use the below criteria and welcomes views of stakeholders on their appropriateness (the order of presentation does not reflect an assessment of relative significance).

### 1. Impact on financial stability

*In particular, what is the impact on the ability of the Bank, PRA and Financial Conduct Authority (FCA) to promote their objectives including to ensure the continuity of critical economic functions? This would include the clarity of supervisors' understanding of firms' operations, and thus their ability to identify and manage risks to financial stability at an early stage as well as the likelihood of public funds being required to be deployed in support of a failed bank.*

### 2. Impact on firms

*In particular, what costs would each option impose on, or alleviate for, firms? Would firms be likely to materially change existing organisational structures? Would some options provide more or less regulatory certainty? It should be noted that the use of existing regulatory powers to replicate identified material benefits of ring-fencing may impose new and significant costs on firms and would need to be carefully considered. The government intends to draw on responses to Q3 in considering this impact.*

### 3. Impact on UK competitiveness and growth

*In particular, what effect would each option have on the attractiveness of the UK relative to other jurisdictions as a financial services hub and the ability of firms to support economic growth in the UK?*

### 4. Impact on competition

*In particular, to what extent would each option diminish or strengthen the ability of individual firms to compete with each other in the interest of UK consumers?*

#### **Box 5.A Question for respondents**

6. How appropriate are the proposed criteria, are there others that should also be taken into account?

# Chapter 6

## The spectrum of options

6.1 The government believes that any assessment of the long-term options for aligning the regimes must take into account an assessment of the ongoing benefits of ring-fencing. Before those are established it is therefore not possible to set out detailed options for future alignment. However, at a high level, there are three basic options: retention, disapplication from some or all firms, or further reform. To inform future analysis, the government has established key questions associated with the implementation of each below for respondents to consider. Along the spectrum of potential options are options that, if pursued, could have significant implications that will need to be carefully considered. The government will also need to engage with the Bank and PRA on implications for their own policies and objectives. In presenting such options, the government is not indicating a preference or setting a policy direction but rather seeking to elicit initial views from stakeholders to serve as the starting point for further reflection.

### Retain the regime with no further changes

6.2 The government could conclude that given the materiality of the benefits the ring-fencing regime provides to both the resolution and supervisory regimes (and by extension to the UK's financial stability and safety and soundness of firms) the most efficient way to retain these is by the full retention of the ring-fencing regime (as amended following government's implementation of the Panel's near-term recommendations). This would bring with it ongoing costs for firms but also provide clarity and avoid the need for firms to adjust to alternative approaches that may be implemented to maintain certain material benefits associated with the regime.

### Disapply the regime

6.3 Alternatively, the government could conclude that it should legislate to disapply the ring-fencing regime from some or all in-scope firms. This could bring some potential benefits but would rely on a judgement that either:

- I. none of the benefits to financial stability brought by the continued application of the ring-fencing regime are sufficiently material to justify their long-term retention; or
- II. that the most material benefits can be efficiently maintained through alternative mechanisms without the need for ring-fencing.

**6.4** Should this option be pursued, a key question to consider will be how to operationalise the disapplication of the regime. The government would need to establish criteria, on either a firm specific or sectoral basis, that must be met before the regime is disapplied and under scenario (II) would need to establish an approach to managing the transition to the new regulatory approach. The Panel suggested that Parliament could legislate to provide the government with the power to disapply the ring-fencing regime to firms once they (either individually or as a group) are considered resolvable. This would require point-in-time judgements to be made on the application of the regime. Those judgements could change over time, which would mean – in keeping with the rationale of the Panel’s proposal - that firms may need to be brought in and out of the ring-fencing regime over time, incurring associated costs.

## **Reform the regime further**

**6.5** Another option would be for the government to seek to retain any material benefits of the ring-fencing regime by way of further reforms to the regime that remove or alter elements of the regime that do not provide such benefits. The exact nature of this approach would be dependent on the benefits that the government is seeking to retain. However, the government would nonetheless like to invite respondents to set out any priorities they might have for further changes to regime beyond those announced as part of Edinburgh Reforms. The feasibility of implementing additional reforms will have to be considered in detail once the key material benefits that should be retained (if any) have been fully established.

### **Box 6.A Questions for respondents**

7. Considering the above criteria and the materiality of the regime’s benefits and costs, do stakeholders have any initial overarching views on the long-term future of the ring-fencing regime?
8. Subject to Q6, how do stakeholders judge how different options may be best operationalised?
9. Assuming further reform of the regime was achievable without a material impact on financial stability, what reforms would stakeholders prioritise?

# Chapter 7

## Responding to this Call for Evidence

### Responding to this Call for Evidence

**7.1** This consultation will close on 07-May 2023. The government is inviting stakeholders to provide responses to the questions set out in this document and to share any other views on options for aligning the ring-fencing and resolution regimes.

**7.2** The government cannot guarantee that responses submitted after 07-May 2023 will be considered.

**7.3** Please send responses to [cfe.ringfencing@hmtreasury.gov.uk](mailto:cfe.ringfencing@hmtreasury.gov.uk) or post to:

Financial Stability Group  
HM Treasury  
Horse Guards Road  
London  
SW1A 2HQ

**7.4** When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make clear who the organisation represents and, where applicable, how the views of members were assembled.

### Processing of Personal Data

**7.5** This section sets out how we will use your personal data and explains your relevant rights under the UK General Data Protection Regulation (UK GDPR).

#### Data subjects

**7.6** The personal data we will collect relates to individuals responding to this Call for Evidence. Responses will come from a wide group of stakeholders with knowledge of a particular issue.

## The personal data we collect

7.7 The personal data will be collected through email submissions and are likely to include respondents' names, email addresses, their job titles, and employers as well as their opinions.

## How we will use the personal data

7.8 This personal data will only be processed for the purpose of obtaining opinions about government policies, proposals, or an issue of public interest. Processing of this personal data is necessary to help us understand who has responded to the Call for Evidence and, in some cases, contact certain respondents to discuss their response. HM Treasury will not include any personal data when publishing its response to this Call for Evidence.

## Lawful basis for processing the personal data

7.9 The lawful basis we are relying on to process the personal data is Article 6(1)(e) of the UK GDPR; processing is necessary for the performance of a task we are carrying out in the public interest. This task is seeking evidence for the development of departmental policies or proposals and obtaining evidence to help us to develop effective policies.

## Who will have access to the personal data

7.10 The personal data will only be made available to those with a legitimate need to see it as part of the Call for Evidence process. We sometimes issue calls for evidence in conjunction with other agencies and partner organisations and, when we do this, this will be apparent from the branding and wording of the Call for Evidence itself. When we issue joint calls for evidence, responses will be shared with these partner organisations.

7.11 In this case, your full responses may be shared with the Bank of England, the Prudential Regulation Authority, and the Financial Conduct Authority in order for them to be able to review the evidence.

7.12 As the personal data is stored on our IT infrastructure, it will be accessible to our IT service providers. They will only process this data for our purposes and in fulfilment with the contractual obligations they have with us.

## How long we hold the personal data for

7.13 We will retain the personal data until our work on the Call for Evidence is complete.

## Your data protection rights

7.14 You have the right to:

- request information about how we process your personal data and request a copy of it;

- object to the processing of your personal data;
- request that any inaccuracies in your personal data are rectified without delay;
- request that your personal data are erased if there is no longer a justification for them to be processed;
- complain to the Information Commissioner's Office if you are unhappy with the way in which we have processed your personal data.

## How to submit a Data Subject Access Request (DSAR)

**7.15** To request access to personal data the HM Treasury holds about you, contact:

The Information Rights Unit  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ  
dsar@hmtreasury.gov.uk

## Complaints

**7.16** If you have concerns about our use of your personal data, please contact the Treasury's Data Protection Officer (DPO) in the first instance at [privacy@hmtreasury.gov.uk](mailto:privacy@hmtreasury.gov.uk)

**7.17** If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner at [casework@ico.org.uk](mailto:casework@ico.org.uk) or via this website: <https://ico.org.uk/make-a-complaint>.

## Next Steps

**7.18** The government recognises the significance of the questions considered above and intends to act in a considered but focused manner in progressing this issue alongside interested stakeholders.

**7.19** Once this Call for Evidence has closed, the government, working with the Bank and PRA through the Ring-Fencing Taskforce, will undertake detailed analysis of the received responses. This analysis will serve to inform the government's development of an initial policy position regarding the long-term future of the ring-fencing regime.

**7.20** The government will then issue its response to the Call for Evidence and set out next steps.

# Annex A

## The UK's resolution and supervisory regimes

### Background to the UK's resolution regime

The UK resolution regime (established in the Banking Act 2009) aims to ensure that firms can be resolved in a safe manner, minimising disruption. It is a core part of the response to the GFC and the approach to overcome the problem of firms being “too big to fail”.

The regime applies to banks, building societies and certain investment firms. The Bank of England is the UK resolution authority, responsible for planning and executing resolutions.

The Banking Act 2009 sets out the objectives that the Bank must have regard to when it prepares for and carries out resolutions, as well as the responsibilities of other UK authorities in relation to certain aspects of the resolution regime. The regime also provides legal powers to ensure resolution is an orderly process. The resolution powers are designed to allow the authorities to take action to manage the failure of a firm — if necessary, before a bank is insolvent — to minimise any wider consequences of its failure for financial stability and ensure confidence in the financial system.

The main resolution tools are bail-in, transfer to a private sector purchaser, and transfer to a bridge bank. The role and operation of the resolution regime is explained in more detail in the Bank of England's Approach to Resolution.<sup>8</sup> HM Treasury provide guidance on how and when the authorities (the Bank, the PRA, the FCA, the FSCS and HM Treasury) will use the regime in their Special Resolution Regime code of practice.<sup>9</sup>

Firms need to have arrangements and plans in place so the Bank can carry out a resolution in case of failure. Firms must implement various policies and rules in relation to barriers to resolvability. This includes the minimum requirements for own funds and eligible liabilities (MREL), which imposes requirements on firms above certain thresholds to hold a certain amount of capital or debt beyond prudential capital requirements that can absorb losses and provide for recapitalisation in

---

<sup>8</sup> [The Bank of England's approach to resolution | Bank of England](#)

<sup>9</sup> <https://www.gov.uk/government/publications/banking-act-2009-special-resolution-regime-code-of-practice-revised-march-2017>



resolution. In addition, the Bank and PRA's Resolvability Assessment Framework which imposes requirements on certain firms to demonstrate that they are resolvable by carrying out an assessment of their preparations for resolution, introduces a public disclosure regime and establishes a framework through which to assess the efficacy of these preparations against eight generic barriers to resolution, grouped under three outcomes which firms are expected to achieve to be considered resolvable.

The Bank published the findings from its first assessment of the resolvability of the eight major UK firms in June 2022,<sup>10</sup> as part of the Resolvability Assessment Framework. The Bank found that if a major UK firm entered resolution at the time, it could do so safely (albeit some with shortcomings and areas where continued work is needed by firms).<sup>11</sup> In his accompanying letter to the Treasury Select Committee, Sir Dave Ramsden (Deputy Governor for Markets and Banking at the Bank of England) set out that shareholders and investors, not taxpayers, would be first in line to bear the costs, thereby overcoming "the 'too big to fail' problem".<sup>12</sup> Nevertheless, the Bank has not made a pass-or-fail assessment as the resolvability of firms is best understood as a spectrum, not a binary judgement. Resolvability is a continuing obligation which firms will need to continue to embed in their governance processes, so that their capabilities for a resolution are kept live and firms' boards and senior management are confident that their firms can, at a minimum, continue to meet the resolvability outcomes. The Bank will undertake its next assessment of the major UK banks' resolvability in 2024.

## Background to the UK's supervisory regime

The PRA is the regulatory authority responsible for supervising ring-fenced banks. The PRA is, as part of the Bank, the UK's prudential regulator for deposit takers, designated investment firms, and insurance companies. In relation to deposit takers the PRA has a general statutory objective to promote the safety and soundness of the firms it regulates. The Financial Services and Markets Act 2000 requires the PRA to advance its general objective primarily by seeking to:

- i. ensure that the business of the firms the PRA regulates is carried on in a way that avoids any adverse effect on the stability of the UK financial system; and

---

<sup>10</sup> Barclays, HSBC, Lloyds Banking Group, Nationwide Building Society, NatWest, Santander UK, Standard Chartered, Virgin Money UK.

<sup>11</sup> <https://www.bankofengland.co.uk/news/2022/june/resolvability-assessment-of-major-uk-banks-2022>

<sup>12</sup> <https://committees.parliament.uk/publications/22597/documents/166297/default/>

- ii. minimise the adverse effect that the failure of one of the firms the PRA regulates could be expected to have on the stability of the UK financial system.<sup>13</sup>

Following amendments made when the ring-fencing regime came into force, the PRA is also required to advance its general objective by discharging its functions in a way that seeks to:

- i. ensure that the business of RFBs is carried on in a way that avoids any adverse effect on the continuity of the provision in the UK of core services;
- ii. ensure that the business of RFBs is protected from risks (arising in the UK or elsewhere) that could adversely affect the continuity of the provision in the UK of core services; and
- iii. minimise the risk that the failure of an RFB or of a member of an RFB's group could affect the continuity of the provision in the UK of core services.

The ring-fencing aspects of the PRA's objective relate to safeguarding the continuity of core services (retail deposits and related payment and overdraft services). The amendment is a refinement to provide a particular focus on ring-fencing and is a central element of the advancement of the PRA's general objective of safety and soundness.

The PRA also has a secondary objective to act, so far as is reasonably possible, in a way that facilitates effective competition in the markets for services provided by the firms that it regulates when they carry on regulated activities. This applies when the PRA is making policies, codes, and rules in pursuit of its primary objectives.

Firms are assessed against the PRA's Threshold Conditions – these are the minimum requirements that firms must meet at all times in order to be permitted to carry on regulated activities in which they engage. In broad terms, the PRA's Threshold Conditions require firms to have an appropriate amount and quality of capital and liquidity, to have appropriate resources to measure, monitor and manage risk, to be fit and proper, conduct their business prudently and be capable of being effectively supervised by the PRA. They are crucial to the operation of the PRA's regulatory regime.

To advance its statutory objectives the PRA has a supervisory approach that follows three key principles – it is: i) judgement-based; ii) forward-looking; and iii) focused on key risks. Across all of these principles, the PRA is committed to applying the principle of proportionality in the supervision of firms.

---

<sup>13</sup> See section 2B(3) of the Financial Services and Markets Act 2000.

- i. **Judgement-based:** The PRA's approach relies significantly on supervisory judgment on the risks that a firm is running, the risks that these pose to the PRA's statutory objectives, whether the firm is likely to continue to meet the Threshold Conditions for authorisation, and how to address any problems or shortcomings. The PRA's supervisory judgements are based on evidence and analysis.
- ii. **Forward-looking:** The PRA's approach is forward-looking. The PRA does not assess firms just against current risks, but also against those that could plausibly arise further ahead. Where the PRA judges it necessary to intervene to mitigate the risks a firm is creating it seeks to do so at an early stage.
- iii. **Focused on key risks:** The PRA focusses its supervision on those issues and those firms that, in its judgement, pose the greatest risk to the stability of the UK financial system. Consistent with its objectives, the PRA aims to concentrate on material issues when engaging with firms. The frequency and intensity of the supervision applied by the PRA to a particular firm therefore increases in line with the risk that the firm poses to the PRA's objectives. As the UK's largest retail banks, RFBs are generally subject to high levels of supervisory scrutiny and activity given their high potential to impact on the PRA's statutory objectives.

In advancing its statutory objectives in relation to ring-fencing, the PRA has determined that its judgement-based approach to assessing the risks posed by firms to its general objective remains appropriate for RFBs. This includes applying the PRA's risk assessment framework to RFBs and assessing:

- i. the potential impact an RFB could have on financial stability, then how the external context and business risk it faces (together, its risk context) might affect the firm's viability
- ii. the RFB's operational mitigation covering management and governance and its risk management and controls
- iii. the RFB's financial mitigation and its financial strength, specifically capital and liquidity

Having formed a judgement on the risks that a firm poses to the PRA's statutory objectives, the PRA undertakes a range of supervisory activities and has a range of supervisory tools available. The PRA has a Proactive Intervention Framework, which captures the PRA's judgement about a firm's proximity to failure, as derived from the PRA's supervisory risk assessment framework, which informs the PRA's supervisory plan and intensity of engagement.

Firms have responsibility for complying with ring-fencing legislation and PRA rules. While there are supervisory activities to ensure that

RFBs are prudentially sound, capable of independent decisions and comply with the legislative and regulatory requirements underpinning ring-fencing, these are mapped to the existing framework and form one aspect of the PRA's risk-based and forward-looking supervisory approach.

# Annex B

## Full list of questions for respondents to consider

**Question 1:** Do stakeholders consider that some, or all, of the identified benefits of ring-fencing to resolution materially assist in planning for resolution?

**Question 2:** Do stakeholders consider that some, or all, of the identified benefits of ring-fencing to resolution materially increase the prospect of a firm failure being effectively managed?

**Question 3:** Do stakeholders consider that some, or all, of the identified benefits of ring-fencing to the supervisory regime materially reduce the risk of firm failure by facilitating more effective risk management and supervision?

**Question 4:** Are there any further material benefits that ought to be taken into account when considering the long-term future of the ring-fencing regime?

**Question 5:** Do stakeholders have any comments on the costs, including opportunity costs, associated with the ring-fencing regime once it has been modified by the implementation of the “near-term recommendations”?

**Question 6:** How appropriate are the proposed criteria, are there others that should also be taken in to account?

**Question 7:** Considering the above criteria and the materiality of the regime’s benefits and costs, do stakeholders have any initial overarching views on the long-term future of the ring-fencing regime?

**Question 8:** Subject to Q6, how do stakeholders judge how different options may be best operationalised?

**Question 9:** Assuming further reform of the regime was achievable without a material impact on financial stability, what reforms would stakeholders prioritise?

### **HM Treasury contacts**

This document can be downloaded from [www.gov.uk](http://www.gov.uk)

If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

Tel: 020 7270 5000

Email: [public.enquiries@hmtreasury.gov.uk](mailto:public.enquiries@hmtreasury.gov.uk)