



# HM Treasury

## Minutes

Meeting date: 27 July 2020, 11:00 – 12:00

Location: Virtual Meeting (via MS Teams)

### Attendees

HM Treasury	Sarah Pemberton (Chair), Joanna Seppala, Lucinda Greenslade, Daniel Hugh-Jones
Bank of England	Ali Moussavi, Clare Merrifield
Financial Services Compensation Scheme	Josh Rendall
Prudential Regulation Authority	Jonathan Sepanski
Association for Financial Markets in Europe	Charlie Bannister, Oliver Moullin
Allen & Overy	Kate Sumpter
Building Societies Association	Jeremy Palmer
City of London Law Society	Dorothy Livingston
Financial Markets Law Committee	Joanna Perkins, Venessa Parekh
Freshfields	Michael Raffan
International Swaps and Derivatives Association	Ann Battle
KPMG UK	Mike Pink
UK Finance	Nala Worsfold

### Transposition of the Bank Recovery and Resolution Directive (BRRD) II – agenda item 1

1. The Treasury explained the purpose of the meeting was to seek views from the Banking Liaison Panel on the UK's proposed transposition approach for BRRDII and the draft regulations to transpose BRRDII. The Treasury highlighted that there was also a public consultation open on the transposition of BRRDII until 11 August 2020. The Panel members were encouraged to provide any further comments in writing as part of the consultation process.

2. The Treasury explained that updates would be made to the Special Resolution Regime (SRR) Code of Practice to reflect changes made as a result of the transposition of BRRDII, and that the Panel would be reconvened later in the year to discuss this.
3. A few members of the Panel noted it was unusual to not include draft regulations in the consultation document. The Treasury acknowledged this but stated that in the timeframe available for transposition it was not possible to provide the draft regulations at the time the consultation document was published.
4. A Panel member was interested to know what aspects of BRRDII would be transposed into legislation as opposed to regulator rules. The Treasury highlighted that the consultation document asked for views as to where certain provisions should be transposed and that this was still being discussed. The Treasury encouraged the Panel members to provide their views on this, if not at the meeting then as part of their consultation response.
5. A Panel member acknowledged the legal responsibility to transpose BRRDII as part of the Government's obligations under the terms of the Withdrawal Agreement.
6. The Treasury then asked for specific views on the general approach to transposition of BRRDII or specific comments on the draft regulations. A Panel member responded by again acknowledging the need to transpose and noted that the Treasury was intending to not transpose the provisions on Minimum Requirement for own funds and Eligible Liabilities (MREL) as these requirements would not come into effect until after the end of the Transition Period.
7. A Panel member noted that there were aspects of BRRDII which could be considered helpful and parts which seemed less useful for the UK's resolution regime. They continued by acknowledging that this was not a discussion about whether to transpose less useful provisions, but rather about the policy optionalities laid out in the consultation paper.
8. A Panel member pointed out that there was still a question as to whether there would be any changes to the resolution framework after the end of the Transition Period and that there were some benefits of the UK being aligned with the EU. The Treasury responded that it was not possible to answer at this stage, but that it did not prevent Panel members from providing comments on this issue.
9. Several Panel members asked the Treasury to give the sector sufficient time to prepare for the implementation of the provisions and any changes that might be made after the end of the Transition Period. The Treasury confirmed that there would be further industry engagement prior to the implementation of the regulations transposing BRRDII.
10. Several Panel members raised concerns about the new Article 33a in BRRDII which introduces a power for the Bank of England to suspend certain obligations prior to exercise of stabilisation powers (a pre-resolution moratorium power). One Panel member noted that these concerns were also raised during negotiations on BRRDII

and expressed concerns that this article might be disruptive for small firms and businesses.

11. A panel member highlighted Article 48 on the sequence of write-down and conversion. They noted that the treatment of non-preferential debt in this article was unclear and that they would provide further comments in writing. The Treasury noted these concerns and that further clarity on this live policy issue would be provided as soon as possible.
12. A Panel member asked whether the Treasury would make a Policy Statement on BRRDII transposition and whether they would be updating the Special Resolution Regime Code of Practice as part of this work. The Treasury responded that updates to the Special Resolution Regime Code of Practice would be made to reflect changes as a result of BRRDII transposition, and that the Panel's views would be sought on this. The Treasury also noted the plan to engage further with industry before implementation of BRRDII.

#### **AOB – agenda item 2**

13. A Panel member raised a concern in relation to the recognition of third-country resolution actions after the end of the Transition Period and expressed a view that a legislative change would be needed.
14. The Treasury noted that there were no current plans to make legislative changes in this area, but would consider the comments raised to a longer timeframe.