

Implementation of the EU Bank Recovery and Resolution Directive

HM Treasury

RPC rating: **fit for purpose**

Description of proposal

The Bank Recovery and Resolution Directive (BRRD) established a common approach within the EU to the recovery and resolution of banks and investment firms. The BRRD was transposed in January 2015 via the UK's special resolution regime (SRR). However, implementation of the new regime has uncovered several areas where the initial transposition could be improved. In particular, the proposal provides:

- the Bank of England and HM Treasury with new powers to activate default provisions in certain contracts to support resolution action;
- the financial regulators with early intervention powers to remove and replace directors, appoint a temporary manager and call a shareholder meeting;
- the Bank of England with new powers to resolve the UK branch of a third country institution; and
- the Bank of England with new powers to use the bank bridge tool¹ for building societies.

Impacts of proposal

The department explains that the proposal does not impose additional costs on business. The department believes that the new powers regarding default provisions will ensure the effectiveness of contractual write down and the conversion provisions, and thus provide additional flexibility rather than placing any additional requirements on firms.

The department also explains that early intervention powers would only be used to restore a firm to viability; hence they are very unlikely to impose additional costs on that firm compared to the alternative of failure. The IA further states that the additional powers regarding third country institutions would only be used if international coordination has broken down. In addition, this power would simply be used to prevent a disorderly insolvency and thus will not impose additional costs on business. The IA also states that the powers concerning building societies would not

¹ This will allow a building society to be converted into a company, which will enable the shares to be transferred to a bridge bank (owned by the Bank of England) in order to resolve a failing institution.

impose additional costs on business because the Bank of England already has the power to transfer the assets and liabilities of a failing building society using other mechanisms.

The RPC verifies the estimated equivalent annual net cost to business (EANCB) of £0.0 million. This will be a non-qualifying regulatory provision that will not score under the Business Impact Target.

Quality of submission

The department states in the IA that these measures provide additional flexibility in resolution and clarify existing powers, rather than imposing new requirements. As such, there are no additional costs, over and above those already outlined in previous impact assessments regarding the BRRD. This appears reasonable in the central case. Nonetheless, it seems likely that there would be costs to business in the event of some of these powers being used. The IA would have benefitted from a more detailed discussion of the counterfactual and of the potential costs and benefits to business should these powers be utilised.

The IA would also have benefitted from a discussion of possible familiarisation costs in the event of the powers being used. In addition, the IA would also have benefitted from a fuller explanation of why these additional powers were not included in the original IA, why this new proposal does not go beyond the minimum EU requirements and why additional clarification is deemed necessary.

Departmental assessment

Classification	Non-qualifying regulatory provision (EU)
Equivalent annual net cost to business (EANCB)	£0.0 million
Business net present value	£0 million
Societal net present value	£0 million

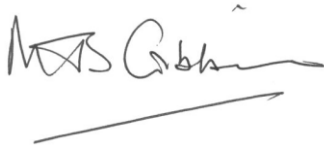
RPC assessment

Classification	Non-qualifying regulatory provision (EU)
EANCB – RPC validated ²	£0.0 million

² For reporting purposes, the RPC validates EANCB and BIT score figures to the nearest £100,000.

Opinion: final stage IA
Origin: European
RPC reference number: RPC16-HMT-3490(1)
Date of implementation: TBC

Business Impact Target (BIT) Score ¹	£0.0 million
Small and micro business assessment	Not required (European origin)



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