



HM Treasury

BANKING LIAISON PANEL 23 November 2020

Minutes

Meeting date: 23 November 2020, 15:30 – 16:15

Location: Virtual Meeting (via MS Teams)

Attendees

HM Treasury	Joe Taylor (Chair), Joanna Seppala, Lucinda Greenslade, Dora Willcock, Toby Churchley, Daniel Hugh-Jones
Bank of England	Stephen Fishbourne, Michael Salib
Financial Conduct Authority	David-Hugh Hutcheson
Prudential Regulation Authority	Jonathan Sepanski
Association for Financial Markets in Europe	Charlie Bannister, Oliver Moullin
Allen & Overy	Jennifer Marshall
Building Societies Association	Jeremy Palmer
Financial Markets Law Committee	Joanna Perkins
Freshfields	Michael Raffan
International Swaps and Derivatives Association	Ciarán McGonagle
KPMG UK	Mike Pink
UK Finance	Nala Worsfold

Updates to the Special Resolution Regime Code of Practice – agenda item 1

1. The Treasury provided an overview of the Special Resolution Regime Code of Practice (The Code) and the proposed changes to the Code.
2. The Treasury explained that the Code sat alongside the legislative framework of the Special Resolution Regime (SRR) which provides the financial authorities, HM Treasury, the Bank of England, the Financial Conduct Authority, the Prudential Regulation Authority and the Financial Services Compensation Scheme, with tools to

manage the failure of certain financial sector firms in an orderly way. The Treasury further explained that the Code provided further detail and explanation of how, and in what circumstances, the powers under the SRR were expected to be used.

3. The Treasury noted updates to the Code were made on a periodic basis in light of policy development and evolving experience, and that the Bank of England, the Prudential Regulation Authority, the Financial Services Compensation Scheme and the Financial Conduct Authority had also been consulted on the changes.
4. In relation to the current proposed changes, the Treasury gave a more detailed presentation and noted that the Code was being updated to: reflect changes as a result of the transposition of the Bank Recovery and Resolution Directive II (BRRDII); reflect changes made to the Special Resolution Regime as a result of changes arising from the UK's exit from the European Union and the removal of references in the Banking Act to the EU-law concept of 'State aid'; and increase alignment with the Bank of England and Treasury Memorandum of Understanding on resolution planning and financial crisis management.
5. The Treasury welcomed the Panel's comments on the Code and any further comments in writing by Wednesday 25 November 2020.
6. The Panel members noted the changes and raised no substantial comments on the content of the changes. Some Panel members identified minor changes needed, such as a remaining reference in the Code in relation to EU institutions. The Treasury also acknowledged the Panel's comment that final proof-reading would be needed.
7. The Treasury provided an update on the next steps for laying the Code before Parliament before the end of the Transition Period.

The Special Administration Regime – agenda item 2

8. The Treasury outlined the policy proposal and key features for insolvency changes, including a Special Administration Regime (SAR) to manage the failure of electronic money and payment institutions.
9. Panel members were supportive of the approach taken to update the regulatory framework, suggesting it would provide confidence to the market.
10. A panel member noted that the Client Assets Sourcebook (CASS) 6 rules had underpinned the SAR for Investment firms. The rules relating to E-money and Payment Institutions, the Payment Services Regulations and Electronic Money Regulations, were less comprehensive than the CASS rules and therefore additional provisions would need to be included in the rules and regulations of the new SAR to provide clarity.
11. The Treasury agreed and noted that the public consultation would provide an opportunity for insolvency practitioners to suggest areas where the rules could be further developed.

12. A panel member noted that in some instances customers of electronic money and payments institutions were using their accounts in ways similar to the usage of a current account. This put greater pressure on the need for the timely return of client assets in insolvency.
13. The Treasury agreed and added that several failures in recent years had seen clients waiting a number of years to see the return of their assets. The new SAR for electronic money and payment institutions would provide insolvency practitioners with a toolkit to significantly reduce this length of time.
14. The Treasury thanked panel members for their comments and noted that panel members would have the opportunity to comment on the details of the policy proposal once the public consultation was launched within the next month.