



Minutes

Meeting date: 18 May 2021, 09:30 – 10:30

Location: Virtual Meeting (via MS Teams)

Attendees

HM Treasury	Sarah Pemberton (Chair), Henry Grigg
Bank of England	Andrew Hewitt, Ali Moussavi
Financial Services Compensation Scheme	Josh Rendall, Casey McGrath
Prudential Regulation Authority	Jonathan Sepanski
Financial Conduct Authority	Hugh-David Hutcheson, Miriam Mirwitch
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	Venessa Parekh, Brian Gray
Freshfields	Michael Raffan
International Swaps and Derivatives Association	Graham Bryant
KPMG UK	Mike Pink
UK Finance	Nala Worsfold

Post implementation review of the Bank Recovery and Resolution Directive (BRRD) – agenda item 1

1. The Treasury explained the purpose of the meeting was to seek views from the Banking Liaison Panel on the Government's post implementation review of the UK's transposition of the Bank Recovery and Resolution Directive (BRRD), which implemented the EU-wide resolution regime for banks. The UK had committed to undertaking this review at the time of BRRD's transposition in 2014.

2. The Treasury outlined that the purpose of the review was to assess whether the original policy objectives of the measures introduced by BRRD had been met, and reassess the potential impacts of these measures on financial firms. The Treasury explained that, as much of the UK's resolution regime predated BRRD, the review was focussing predominantly on those measures that were new to the UK regime when BRRD was transposed. These included the introduction of the bail-in tool and changes to depositor preference in the bank insolvency creditor hierarchy. Panel members were invited to share their views on whether these measures continued to meet the original policy intent.
3. A few members of the Panel commented that this review could be an opportunity to reflect on any changes that could be made to the resolution regime now the UK has left the EU. The Treasury explained that the specific purpose of post implementation reviews was specifically to look back at whether the existing regime had worked as intended since BRRD's transposition, rather than look at what changes to the regime could be made in future.
4. Many members of the Panel commented that the measures introduced by BRRD remained important and overall the UK resolution regime continued to meet the original policy intent. Some commented that it was important for the UK to continue to be aligned to international standards set by the Financial Stability Board (FSB) and be broadly aligned with international peers, including the US and the EU. One Panel member also noted that the regime introduced by BRRD was based on the pre-existing UK regime.
5. Some Panel members said that the bail-in tool remained essential and was a common feature of regimes in other jurisdictions. There was some debate on the extent to which the bail-in tool and the minimum requirement for own funds and eligible liabilities (MREL) had introduced material costs to firms. Whilst one Panel member said that the costs of raising eligible liabilities to be bailed in had not been prohibitively expensive, other members commented that there had been some burdens on smaller and medium-sized firms. One Panel member commented that concerns about the costs of MREL for small and medium-sized firms had been raised already as part of the Bank of England's review of MREL. There was also some debate over the detailed implementation of the bail-in powers, specifically the provisions regarding contractual recognition of bail-in – one Panel member commented that the UK authorities had been pragmatic in its approach, whilst another asked whether more flexibility could be introduced to ease burdens on firms. Finally, one member made specific comments about the application of the bail-in tool for building societies.
6. Some Panel members said that the depositor preference changes also remained important. However, one member asked whether more needed to be done to ensure the depositor preference rules were well understood by depositors.
7. Other aspects of the regime were also raised by the Panel. One member commented that changes were needed to the UK's framework for recognition of third country resolution action, and that this had been raised with the UK authorities before. Another member raised the Asset Management Vehicle tool that had been introduced by BRRD, and questioned whether this needed to remain in the UK

regime. Finally, a member asked whether recovery and resolution planning requirements implemented by BRRD needed to be reviewed in light of developments with the Bank of England's Resolvability Assessment Framework (RAF).