HM Treasury

BANKING LIAISON PANEL
11 August 2021

Minutes

Meeting date: 11 August 2021, 10:00 – 11:00

Location: Virtual Meeting (via MS Teams)

Attendees

HM Treasury	Sarah Pemberton (Chair), Lucinda Greenslade, Sarah McLean, Thomas Piotrowicz, Matthew Alder, Minesh Gadhvi, Catherine Waring
Bank of England	Andrew Hewitt, Rajpal Ghataoura, Tom Coates
Prudential Regulation Authority	Rory Vaughan
Financial Conduct Authority	James Buckley, Miriam Mirwitch
Financial Services Compensation Scheme	Karen Gibbons, Emma Brown
Association for Financial Markets in Europe	Charlie Bannister
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

Investment Firms Prudential Regime (IFPR): removal of FCA investment firms from the UK resolution regime– 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 proposal to remove FCA investment firms from the UK resolution regime. The Treasury introduced the obligations for the FCA to create a new prudential regime for investment firms in the Financial Services Act

2021, and that this presented an opportunity to review the scope of the UK resolution regime for FCA investment firms.

2. The Treasury outlined that, following a public consultation and consulting with the Bank, PRA and FCA, the Government had decided to remove FCA investment firms from the UK resolution regime. FCA investment firms will remain subject to relevant legislation and the FCA's existing rules and processes in place to facilitate the orderly wind-down of FCA investment firms. In addition, the Investment Bank Special Administration Regime (IBSAR) will be available to manage the failure of some investment firms. The Government considers this more appropriate for this set of firms. The Treasury also explained that they considered this in line with the wider IFPR rationale to introduce proportional prudential requirements for investment firms.

3. The Treasury noted that PRA investment firms would remain subject to the resolution regime due to the systemic nature of these firms.

4. A few members of the Panel commented that they agree with the approach to remove FCA investment firms from the UK resolution regime due to the size and nature of these firms. They noted that it was right that larger firms will still remain subject to the regime.

5. The Treasury asked for comments on the draft legislative text previously shared with the Panel which would remove FCA investment firms from the UK resolution regime. The Treasury also asked the Panel for views on the intended approach to leave an empty category referencing FCA-supervised investment firms in section 89A of the Banking Act 2009.

6. A Panel member noted that the legislation in relation to resolution, contains a number of other empty categories so it would not be uncommon to leave the empty category. Two other Panel members commented that it would be helpful to tidy up the legislation to ensure it is simple for investment firms to read. The Treasury said that, alongside updates to the legislation, they would be updating the Special Resolution Regime Code of Practice to provide further clarity for firms.

7. The Treasury then laid out the potential consequential amendments to legislation that may be needed as a result of removing FCA firms from the UK resolution regime. The Panel agreed that these were the right consequential amendments to look at and could not think of others at this time. They had no further comments at this stage.

8. The Panel noted that on the amendment to Section 48D of the Banking Act, the exclusion should continue for FCA investment firms.

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9. The Treasury highlighted that at the previous BLP meeting on 18 May, they presented a paper inviting comments on the post-implementation review of the UK's transposition of the Bank Recovery and Resolution Directive. The Treasury clarified that the review will also consider the measures introduced by the Bank Recovery and

Resolution Order 2016. The purpose of this legislation was to make improvements to the UK's transposition of BRRD, and the Treasury therefore considered it helpful to explicitly include it in the review. The Panel noted this.