



HM Treasury

Implementing the Bank of England Levy

A consultation on Draft Regulations

November 2023

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Chapter 1

Introduction

1.1 Under the Cash Ratio Deposits scheme (“the CRD scheme”), deposit-taking institutions place non-interest-bearing deposits at the Bank of England (“the Bank”). The Bank invests these deposits in gilts, and the income generated is used to fund the costs of its monetary policy and financial stability functions.

1.2 The CRD scheme is currently provided for by the Bank of England Act 1998 (“the 1998 Act”).

The Review and Policy Consultation

1.3 The Economic Secretary to the Treasury announced a review of the CRD scheme in a written statement to the House of Commons on 20 July 2021.

1.4 HM Treasury ran a 6-week public consultation on the CRD scheme between 24 September 2021 and 5 November 2021. All eligible institutions under the CRD scheme, as well as trade associations, were contacted and invited to respond. The consultation document asked for views from interested parties on: the design and operation of the CRD scheme, the impact of the scheme’s performance, retaining the existing CRD scheme with modifications, proposals for replacing the CRD scheme with a new levy, the introduction of a new levy and the impact of a new levy on the financial sector.

1.5 The consultation received six responses – including two trade associations, who together represent many of the deposit-takers within scope of the CRD scheme. Overall, respondents supported the proposal of a new levy.

1.6 The government confirmed its intention to proceed with a levy-based arrangement that delivers a more reliable and stable funding scheme for the Bank’s policy functions in a Policy Statement, issued on 7 June 2022. Doing so ensures that the income received by the Bank is in line with its forecast expenditure, provides increased certainty to the Bank on its overall funding and increased certainty to deposit-takers over the size of their annual contributions.

The levy

1.7 The Financial Services and Markets Act 2023 (“FSMA 2023”) makes amendments to the 1998 Act to enable the Bank to charge a levy to deposit-takers. The purpose of the levy is to recover the amounts required by the Bank in connection with the funding of its policy functions. These are the functions exercised by the Bank in pursuit of its financial stability and monetary policy objectives. Each year, the Bank

will determine the policy functions that it will fund, and the total amount of the levy that the Bank reasonably considers it requires in connection with the funding of those functions. The Bank will also separately publish a framework document, which will outline the Bank's approach to levying policy costs. This shall be consulted on independently by the Bank and is available on the Bank's website (Bank of England Levy: Framework Document).

1.8 The amendments to the 1998 Act provide that the amount of the levy that an eligible institution is liable to pay in respect of a levy year will be determined by the Bank in accordance with regulations made by the Treasury¹. The regulations will maintain the eligible liability threshold of the CRD scheme, whereby eligible institutions with eligible liabilities up to and including £600 million will not be required to pay the levy, and those with eligible liabilities of over £600 million will pay the levy in proportion to the size of their eligible liabilities.

1.9 This consultation seeks parties' views on Draft Regulations. It should be read in parallel to the Bank's Consultation Paper (Bank of England Levy: Framework Document) in which further detail can be found on the impacts of the levy on eligible institutions.

¹ Paragraph 5(1), Schedule 2ZA to the 1998 Act, as inserted by section 70 FSMA 2023.

Chapter 2

What do the Draft Regulations do?

2.1 As set out in the [2022 Policy Statement](#) following the [2021 Consultation](#), the Draft Regulations are intended to allocate the Bank's policy costs to payers in proportion to their eligible liability base. This is a continuation of how the CRD scheme operates. The policy rationale for this is the link between the size of a financial institution's liabilities and its potential impact on the Bank's financial stability functions.

2.2 The Draft Regulations make provision for:

2.2.1 Which eligible institutions do not have to pay the levy

2.2.2 The calculation for apportioning costs between those eligible institutions that do have to pay the levy

2.2.3 Determining the eligible liability base of an eligible institution

2.2.4 Discretions the Bank may use when applying the calculation.

What is an eligible institution

2.3 The Draft Regulations rely on the definition of an eligible institution that will be set out in Schedule 2ZA to the 1998 Act.

2.4 An eligible institution is a person who, at any time during a levy year, is an authorised deposit-taker.

2.5 An authorised deposit-taker for these purposes is a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits. Authorised deposit taker does not include a credit union, a friendly society or a person who has permission under Part 4A only in the course of effecting or carrying out contracts of insurance in accordance with that permission².

Eligible institutions that do not have to pay a levy

2.6 Regulation 3(1) provides that eligible institutions with an average liability base up to and including £600 million for the relevant levy year do not have to pay the levy.

² Paragraph 2, Schedule 2ZA to the 1998 Act, as inserted by section 70 FSMA 2023.

How the cost is apportioned between eligible institutions that do have to pay a levy

2.7 Regulation 3(2) sets out the calculation that applies to eligible institutions with an average liability base that is over £600 million for the relevant levy year. The effect of the calculation is that the Bank will continue to apportion costs according to the size of the institution, so that larger institutions that benefit from the Bank's Sterling Monetary Framework and the Bank's role as resolution authority pay a larger share of the costs.

New levy payers

2.8 Regulation 3(4) allows the Bank to make appropriate adjustments in years where there is a new levy payer. A new levy payer is an institution that has eligible liabilities over £600 million for a levy year, but that did not reach that threshold (and therefore was not required to pay a levy) in the previous levy year. This is defined in regulation 3(5)(b).

2.9 When determining the anticipated levy requirement, the Bank will determine the amount it reasonably requires in any levy year. The Bank may add costs from the previous levy year that were not covered by the levy for that year, and will take into account any levy collected the previous levy year that exceeded the Bank's costs. As a new levy payer will not have paid the levy the previous year, it may not be appropriate for their contribution to be affected by costs and payments from previous years. Regulation 3(4)(a) gives the Bank discretion to make adjustments to the amount of the anticipated levy so that a new levy payer's contribution reflects a proportion of appropriate costs. Where the Bank is making an adjustment for a new levy payer, regulation 3(4)(b) gives the Bank discretion to make corresponding adjustments to the amount of levy payable by the other institutions.

How the average liability base is determined

2.10 Regulations 3(5) to 3(7) and 4, along with the Schedule, make provision for how the average liability base will be calculated.

2.11 The liability base of an eligible institution is the aggregate of their eligible liabilities. The method for determining eligible liabilities and the amounts that are included in that determination are the same as under the CRD scheme.

2.12 The average liability base of an eligible institution will be determined by the Bank, by reference to the eligible liabilities the eligible institution has during the reference period.

2.13 Regulation 3(5)(c) provides that the reference period will normally be the period from 1 October to 31 December prior to the start of the relevant levy year. Where an eligible institution is a new entrant (i.e. it becomes an authorised deposit taker during the reference period), or where an eligible institution has not provided sufficient

eligible liability data for the reference period, the Bank may use another appropriate three-month period of data.

2.14 Regulation 3(7) provides the Bank with discretion over the method of calculating the average liability base. This may be needed, for example, to enable the Bank to take account of changes to the structure of an organisation and will be used in accordance with the Bank's framework document.

2.15 Regulation 6 will enable the Bank to use data obtained under the CRD scheme in the first levy year only. In subsequent years the Bank will use data that has been obtained in connection with the levy.

Review of the Regulations

2.16 Regulation 5 requires the Treasury to review the Regulations, and for the first review to be within 5 years of the start of the levy.

Chapter 3

What has not changed?

3.1 The primary intent behind how costs are levied and apportioned has not changed. This includes no changes to:

3.1.1 The threshold that is used to determine which institutions are required to pay the levy.

3.1.2 The principle that larger institutions pay larger amounts, in line with the benefits they receive from the Bank's Sterling Monetary Framework and the Bank's role as resolution authority.

3.1.3 The method for determining the eligible liabilities of an eligible institution and the related definitions.

Chapter 4

What has changed?

4.1 The Bank will now use data over a three-month period to determine the average liability base, rather than a six-month period.

4.2 The detailed provisions for calculating eligible liabilities are set out in the Schedule. Those provisions are intended to have the same effect as the current provisions in the Cash Ratio Deposits (Eligible Liabilities) Order 1998. Amendments have been made for clarification and to remove redundant provisions. A transposition table showing where the provisions in that Order are found in the Draft Regulations is in Annex A.

Chapter 5

Questions for Respondents

5.1 As set out above, the policy intention is that costs should continue to be apportioned proportionately, with smaller eligible institutions paying nothing, and larger institutions paying a share in line with their size. Do you agree that the Draft Regulations reflect this policy intention?

5.2 Do you have any comments on the clarifications we have made to the provisions that were part of the CRD scheme?

5.3 Do you have any other comments on the drafting of the Draft Regulations?

5.4 This consultation will remain open until 11:59pm on 15 December 2023. Please submit responses to:
BankofEnglandLevy@hmtreasury.gov.uk

Privacy Notice

Processing of personal data

This section sets out how we will use your personal data and explains your relevant rights under the UK General Data Protection Regulation (UK GDPR). For the purposes of the UK GDPR, HM Treasury is the data controller for any personal data you provide in response to this consultation.

Data subjects

The personal data we will collect relates to individuals responding to this consultation. These responses will come from a wide group of stakeholders with knowledge of a particular issue.

The personal data we collect

The personal data will be collected through email submissions and are likely to include respondents' names, email addresses, their job titles, and employers as well as their opinions.

How we will use the personal data

This personal data will only be processed for the purpose of obtaining opinions about government policies, proposals, or an issue of public interest.

Processing of this personal data is necessary to help us understand who has responded to this consultation and, in some cases, contact certain respondents to discuss their response.

HM Treasury will not include any personal data when publishing its response to this consultation.

Lawful basis for processing the personal data

The lawful basis we are relying on to process the personal data is Article 6(1)(e) of the UK GDPR; the processing is necessary for the performance of a task we are carrying out in the public interest. This task is consulting on the development of departmental policies or proposals to help us to develop good effective policies.

Who will have access to the personal data

The personal data will only be made available to HM Treasury Officials with a legitimate need to see it as part of the consultation process.

As the personal data is stored on our IT infrastructure, it will be accessible to our IT service providers. They will only process this personal data for our purposes and in fulfilment with the contractual obligations they have with us.

How long we hold the personal data for

We will retain the personal data until the consultation process has been completed and the policy is implemented. After this, we will only retain personal data if it is embedded in a response, but we will not use it for any unrelated purposes.

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- request information about how we process your personal data and request a copy of it
- object to the processing of your personal data
- request that any inaccuracies in your personal data are rectified without delay
- request that your personal data are erased if there is no longer a justification for them to be processed
- complain to the Information Commissioner's Office if you are unhappy with the way in which we have processed your personal data

How to submit a data subject access request (DSAR)

To request access to your personal data that HM Treasury holds, contact:

The Information Rights Unit
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

dsar@hmtreasury.gov.uk

Complaints

If you have concerns about our use of your personal data, please contact the Treasury's Data Protection Officer (DPO) in the first instance at privacy@hmtreasury.gov.uk

If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner at casework@ico.org.uk or via this website: <https://ico.org.uk/make-a-complaint>.

Annex A

Transposition table

Current provision in Cash Ratio Deposits (Eligible Liabilities) Order 1998 - SI 1998/1130	Location in Draft Regulations
Article 2 (Interpretation) paragraph (1) – list of defined terms in the Order	
“the Act”	Regulation 2
“credit items in the course of transmission”	Schedule 1, Part 1, para 1
“debit items in the course of collection”	Schedule 1, Part 1, para 1
“ecu”	Removed as no longer relevant
“eligible institution”	Defined in para 2 of Schedule 2ZA to the Bank of England Act 1998 (as inserted by section 70 Financial Services and Markets Act 2023)
“finance lease”	Schedule 1, Part 1, para 1
“fixed assets”	Schedule 1, Part 1, para 1
“group”	Schedule 1, Part 1, para 1
“items in suspense”	Schedule 1, Part 1, para 1
“net sterling liabilities to non-resident offices”	Schedule 1, Part 1, para 1
“non-resident banking subsidiary”	Schedule 1, Part 1, para 1
“non-resident offices”	Schedule 1, Part 1, para 1
“non-resident parent”	Schedule 1, Part 1, para 1
“over two year deposits”	Schedule 1, Part 1, para 1
“retransfer agreement”	Schedule 1, Part 1, para 1
“sale and repurchase agreement”	Schedule 1, Part 1, para 1
“the Schedule”	Regulation 2
“securities”	Schedule 1, Part 1, para 1
“sterling deposit liabilities to non-resident offices”	Schedule 1, Part 1, para 1
“stored value card”	Schedule 1, Part 1, para 4(3) and (4)
“total sterling claims on non-resident offices”	Schedule 1, Part 1, para 1
“total sterling liabilities to non-resident offices”	Schedule 1, Part 1, para 1
“undertaking”	Schedule 1, Part 1, para 1

“voting share capital”	Schedule 1, Part 1, para 1
Article 2 paragraph (2) – meaning of shares in definitions of “non-resident banking subsidiary” and “non-resident parent”	Schedule 1, Part 1, para 2
Article 2 paragraph (3) – provisions for building societies	Schedule 1, Part 1, para 3
Article 2 paragraph (4) – sterling deposits made with UK offices of eligible institution	Schedule 1, Part 1, para 4
Article 2 paragraph (5) – certificates of deposit	Schedule 1, Part 1, para 5
Article 2 paragraph (6) – inclusion of ecus in references to currencies	Removed as no longer relevant
Article 2 paragraph (7) – books and records	Schedule 1, Part 1, para 6
Article 2 paragraph (8) – books and records	Schedule 1, Part 1, para 7
Article 3 (Eligible liabilities)	Regulation 4 (eligible liabilities)
Article 4 (Liabilities in respect of sterling deposits)	Schedule 1, Part 3, para 21 (Liabilities in respect of sterling deposits)
Article 5 (Liabilities and claims in respect of retransfer agreements)	Schedule 1, Part 3, para 22 (Liabilities and claims in respect of retransfer agreements)
Article 6 (Holdings of securities)	Schedule 1, Part 3, para 23 (Holdings of securities)
Article 7 (Avoidance of double-counting)	Schedule 1, Part 3, para 24 (Avoidance of double-counting)
Schedule, para 1	Schedule 2, Part 2, para 8
Schedule, para 2	Schedule 2, Part 2, para 9
Schedule, para 3	Schedule 2, Part 2, para 10
Schedule, para 4	Schedule 2, Part 2, para 11
Schedule, para 5	Schedule 2, Part 2, para 12
Schedule, para 6	Revoked by SI 2005/3203, 1 March 2006
Schedule, para 7	Schedule 2, Part 2, para 13
Schedule, para 8	Revoked by SI 2005/3203, 1 March 2006
Schedule, para 9(a)	Schedule 2, Part 2, para 14
Schedule, para 9(b)	Schedule 2, Part 2, para 15
Schedule, para 9(c)	Schedule 2, Part 2, para 16
Schedule, para 10	Schedule 2, Part 2, para 17
Schedule, para 11	Schedule 2, Part 2, para 18

Schedule, para 12	Schedule 2, Part 2, para 19
Schedule, para 13	Schedule 2, Part 2, para 20

HM Treasury contacts

This document can be downloaded from www.gov.uk

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