BANKING LIAISON PANEL
21 November 2024

HM Treasury	George Barnes (Chair), Henry Grigg, Katie Evans, Ted Hu, Prakash Parameshwar, Ed Henley, Helena Lowcock, Kate Lowdon
Bank of England	Andrew Hewitt, Tommy Garland, Tom Coates
Financial Conduct Authority	Hugh-David Hutcheson, Tafadzwa Musiri
Prudential Regulation Authority	Tom Lappage
Financial Services Compensation Scheme	Sean Orrick
Association for Financial Markets in Europe	Matthew Harley
Building Societies Association	Aisling Morgan
Financial Markets Law Committee	Brian Gray
CLLS Insolvency Law Committee	Ian Johnson
Freshfields	Michael Raffan
International Swaps and Derivatives Association	Graham Bryant
Interpath Advisory	Mike Pink
UK Finance	Simon Hills, Nala Worsfold

Agenda item 1 – Introductions

1. The Treasury introduced and welcomed new members of the Panel.

Agenda item 2 – Updates on the parliamentary passage of the Bank Resolution (Recapitalisation) Bill

2. The Treasury gave an overview of the passage of the Bank Resolution (Recapitalisation) Bill (the Bill) through Parliament. The Bill has completed its passage through the House of Lords and moved to the Commons on 13th November. The Treasury explained that the parliamentary schedule going

forward is yet to be determined, and so the date the Bill would come into force is also uncertain.

3. The Treasury noted that members of the House of Lords were content with the principles of the Bill, with scrutiny focussed on practical, technical details. Amendments tabled by the Government on reporting and accountability for the Bank of England were well received.

4. The Treasury further noted that peers were particularly interested in the scope of the mechanism, and successfully passed an amendment to limit the use of the recapitalisation mechanism. As the Bill currently stands, the mechanism could not be used on firms that have been directed to maintain an end-state MREL (Minimum Requirements for own funds and Eligible Liabilities) exceeding minimum capital requirements. The Treasury noted that the Government is carefully reflecting on the feedback received on this issue from peers and others, and will consider how to proceed in light of that amendment.

5. One Panel member asserted that if a firm has met its end-state MREL requirements, it should be bailed in using those resources rather than the new mechanism. However, they agreed that where firms are in transition to end-state MREL, there is a reasonable case for using the mechanism. The Treasury acknowledged this point, noting that the Government expects the Bank to exercise its mandatory write-down powers to write down any regulatory capital, as well as write down available MREL resources, prior to using the mechanism. However, the Government initially resisted this amendment on the basis that while the intent to use the mechanism primarily on small banks is clear, it is prudent to retain flexibility given that the circumstances of failure scenarios are highly uncertain. The Treasury concluded that ministers would reflect on this issue and decide how to proceed in due course.

Agenda item 3 – Updates to the Code of Practice for the Special Resolution Regime

6. The Treasury gave an overview of the proposed additions to the Code of Practice produced to reflect the measures in the Bill. This included information on how the Bank of England would calculate a request for funds from the Financial Services Compensation Scheme (the FSCS), the costs associated with a resolution that would be eligible to be covered by FSCS funds, and how costs to the FSCS would be taken into account when resolution decisions are made. The Treasury explained that the Bill remains a moving target as it passes through Parliament, and the updates to the Code of Practice would change as necessary. The Treasury confirmed that it would produce a full update to the Code of Practice in time for the Bill coming into force and that it expected to re-engage the panel in early 2025.

7. Some panel members raised concerns about the burden using the recapitalisation mechanism would place on industry, particularly if the mechanism is used on large firms or levies are required over multiple years. The

Treasury reassured the Panel that there are guardrails in place, such as the Prudential Regulation Authority's role in ensuring levies are affordable, and offered to provide further clarity on the levying process in the Code of Practice.

8. One panel member asked how the Bank of England would assess the resources needed to restore market confidence in a firm in resolution, and whether those considerations would be included in reports required under the Bill. The Bank of England explained that they would consider the losses the firm in resolution incurred and may incur, and what is required to stabilise it, as well as the capital position of the firm relative to its peers. The Treasury added that the Bill would allow it to set requirements for the reports produced following a specific resolution, and would generally expect reports to provide as full an account as possible, noting that some information may be omitted from published reports where doing is considered to be in the public interest.

9. One Panel member asked about what would happen to funds recovered by the FSCS, and how they would be returned to levy payers. The Treasury noted that the FSCS may use recouped funds to offset future levies or paid back to levy payers. The Panel member also asked what happens, with respect to funds recovered by the FSCS after the mechanism has been used, when a levy-paying deposit-taker exits the market. The Treasury committed to considering this issue further and clarifying the matter in the Code of Practice if necessary.

10. One Panel member asked how the timelines for the Bank of England's consultation on its approach to setting MREL would interact with those for the Bill. The Bank of England set out that the consultation window ends in January and, subject to feedback received, the policy would be expected to apply from 1 January 2026. The Treasury explained that the passage of the Bill would be followed by a commencement order to bring the provisions into force and rules from the Prudential Regulation Authority. The Treasury expected to be able to be more definitive on timelines in early 2025 and committed to updating the panel at the earliest opportunity.

11. The Treasury also invited written comments from the Panel.