

Appendix 4: The Bank of England's Statement of Policy on Restructuring Planning

1 Background and statutory framework

1.1 This Statement of Policy (SoP) is issued by the Bank of England (the Bank), as UK resolution authority, in accordance with section 3B(9) of the Banking Act 2009 as amended (the Banking Act). The SoP sets out how the Bank expects to use its power under section 3A(2) of the Banking Act to direct a 'relevant person' to take measures to address impediments to resolvability, specifically in relation to their capabilities and arrangements to support restructuring in the context of resolution.

1.2 A 'relevant person' means:

- (a) an institution¹ authorised for the purpose of the Financial Services and Markets Act 2000 (FSMA) by the Prudential Regulation Authority (PRA) or Financial Conduct Authority (FCA);²
- (b) a parent of such an institution which (i) is a financial holding company or a mixed financial holding company; and (ii) is established in, or formed under the law of any part of, the UK; or
- (c) a subsidiary of such an institution or of such a parent which (i) is a financial institution³ authorised by the PRA or FCA; and (ii) is established in, or formed under the law of any part of, the UK.

1.3 The intended process around using this direction power is set out in the Bank's SoP on its power to direct institutions to address impediments to resolvability.⁴ In short, this process involves the Bank:

- (a) determining that there is a substantive impediment to the resolvability of an institution;
- (b) where a substantive impediment is identified, notifying the institution of the impediment. The institution will then have four months to make its own proposal to remove the identified impediments; and
- (c) if the Bank remains dissatisfied with the measures proposed by the institution, directing the institution to take specific action to remediate the impediment.

1.4 This SoP sets out objectives and principles that firms are expected to meet in order to avoid a determination that insufficient capabilities to plan and execute restructuring constitutes an impediment to resolvability.

1.5 Not meeting these objectives and principles may constitute a barrier to resolvability and may result in the Bank directing firms to improve their capabilities to ensure resolvability.

¹ For the purposes of this SoP the term 'institution' means UK-incorporated banks, UK-incorporated building societies and those UK-incorporated investment firms that are required to hold initial capital of €730,000, in particular those that deal as principal. References to 'institution' shall be taken to also include 'relevant persons'.

² The PRA and FCA are the UK competent authorities. According to Article 2 of the Bank Recovery and Resolution Directive (2014/59/EU) and Article 4 of the Capital Requirements Regulation (EU No. 575/2013), as amended by Regulation (EU No. 2019/876), 'competent authority' means a public authority or body officially recognised by national law, which is empowered by national law to supervise institutions as part of the supervisory system in operation in the Member State concerned.

³ The term 'financial institution' has the meaning given by article 4 (1) (26) of Regulation 575/2013/EU.

⁴ Bank of England (2015) 'The Bank of England's power to direct institutions to address impediments to resolvability' available at: <https://www.bankofengland.co.uk/paper/2015/the-boes-power-to-direct-institutions-to-address-impediments-to-resolvability-sop>.

1.6 In considering these objectives and principles, firms should have regard to their size, business model, and preferred resolution strategy.¹ Firms are encouraged to consider how capabilities and arrangements developed for other purposes may be leveraged to comply with this SoP, given the substantial overlap with what is required under other policies and initiatives (such as recovery planning).

2 Policy scope

2.1 This SoP applies to:

- (a) institutions notified by the Bank that their preferred resolution strategy is Bank-led bail-in;² and
- (b) institutions notified by the Bank that they are a 'material subsidiary' of an overseas-based banking group for the purposes of setting internal MREL in the UK, as determined in accordance with the criteria set out in the Bank of England's approach to setting a minimum requirement for own funds and eligible liabilities (MREL SoP).³

2.2 Hereafter, references to 'firms' should only be taken to include those institutions that meet the criteria set out in paragraphs 2.1(a) and (b).

2.3 The Bank may notify a material subsidiary that it does not fall within scope of this SoP in cases where restructuring capabilities are less relevant to the firm's orderly resolution. This could include where the firm's ultimate parent is likely to be resolved through the immediate transfer of all or most of its business to a private sector purchaser.

2.4 The objectives and principles in this SoP apply in respect of a firm's capabilities to plan and execute restructuring across their group⁴ as a whole. For the purposes of this SoP the capabilities of a firm's subsidiaries shall be considered capabilities of the firm itself provided that they are applicable to the firm's group and would be available to the firm in the event of resolution.

2.5 Material subsidiaries should consider this SoP within the context of the Statement of Policy: *The Bank of England's Approach to Assessing Resolvability* (Approach to Assessing Resolvability SoP), in particular paragraphs 2.5-2.6.

3 Objectives

3.1 The overarching objective of this SoP is to ensure that firms are able to plan and execute restructuring effectively and on a timely basis in the event of resolution. To achieve this overarching objective, firms will need to apply the principles of this SoP having regard to the restructuring objective and the planning objective set out below.

3.2 The **restructuring objective** is that, once stabilised following entry into resolution:

- (a) firms for whom the Bank's preferred resolution strategy is Bank-led bail-in are able to restructure their business to:
 - (i) address the causes of failure;

¹ The Bank will notify a firm of its preferred resolution strategy on at least an annual basis.

² For the purposes of the Statement of Policy, 'Bank-led bail-in' means a resolution in which the Bank uses the bail-in stabilisation option.

³ Bank of England (2018) 'The Bank of England's approach to setting a minimum requirement for own funds and eligible liabilities (MREL)' available at: <https://www.bankofengland.co.uk/paper/2018/boes-approach-to-setting-mrel-2018>.

⁴ For the purposes of this SoP, a firm's group should be taken to include the firm and subsidiaries that are directly or indirectly owned by the firm. It does not include the parent entities of the firm or subsidiaries thereof in which the firm does not have an ownership stake.

- (ii) enable the firm to return to a viable business model that is sustainable in the long-term;
 - (iii) enable the firm to return to fulfilling relevant regulatory requirements on a forward-looking basis; and
 - (iv) support the achievement of the Bank's statutory resolution objectives, in particular by ensuring the continuity of banking services and critical functions in the UK.¹
- (b) firms that are a subsidiary of an overseas-based banking group are able to restructure their business to:
- (i) enable the firm to return to fulfilling relevant regulatory requirements on a forward-looking basis;
 - (ii) support the achievement of the Bank's statutory resolution objectives, in particular by ensuring the continuity of banking services and critical functions in the UK;² and
 - (iii) ensure consistency with the orderly restructuring of the group of the firm's ultimate parent.

3.3 The **planning objective** is that:

- (a) Firms for whom the Bank's preferred resolution strategy is Bank-led bail-in are able to:
- (i) deliver, within one month of entry into resolution, a business reorganisation plan containing all of the elements set out in Articles 2-5 of Commission Delegated Regulation 2016/1400.³
 - (ii) deliver further planning during resolution to support the timely approval and effective implementation of their business reorganisation plan. This planning should be sufficiently timely and credible to enable exit from resolution within three to six months of entry into resolution,⁴ including by satisfying the Bank that:
 - the planned actions would achieve the restructuring objective if undertaken (thereby enabling the Bank to approve the business reorganisation plan);⁵ and
 - there was no further need for a Bail-in Administrator to oversee the firm's planning for restructuring (thereby enabling the Bank to return the firm to private-sector control).
- (b) Firms that are subsidiaries of overseas-based banking groups are able to:
- (i) contribute relevant planning to support the delivery of a credible group restructuring plan or revised business plan in line with the requirements and expectations applicable in their home jurisdiction; and

¹ This does not mean that a firm would need to be able to continue providing its existing banking services or critical functions indefinitely. The continuity of these services and functions may be achieved, for instance, by transferring them to another provider or shrinking to point of non-criticality, provided that this avoids disruption to customers.

² This does not mean that a firm would need to be able to continue providing its existing banking services or critical functions indefinitely. The continuity of these services and functions may be achieved, for instance, by transferring them to another provider or shrinking to point of non-criticality, provided that this avoids disruption to customers.

³ The minimum elements of a business reorganisation plan and the minimum contents of the reports on the progress in the implementation of the plan are further specified in regulatory technical standards.

⁴ This does not mean that the implementation of the business reorganisation plan would need to be complete before the firm can exit from resolution. The stylised resolution timeline set out in the Bank's Approach to assessing Resolvability SoP provides further detail on this process. In determining the timing of exit from resolution, the Bank will consider a number of factors in addition to the status of restructuring planning.

⁵ In consultation with the PRA and FCA.

- (ii) deliver restructuring planning at the level of the firm itself as needed to support the decisions and actions the Bank may need to take as host resolution authority, including:
 - the write-down or conversion of internal MREL resources;
 - engagement with the home authority around the provision of further financial resources to the firm;
 - engagement with the home authority regarding the restructuring actions to be taken in respect of the firm; and
 - engagement with relevant authorities in the UK, including the PRA and FCA.

4 Principles

Principle 1: identification of restructuring options

4.1 Firms should be able to identify restructuring options during resolution and the pre-resolution contingency planning period.¹ For the purposes of this SoP, 'restructuring options' are the potential measures available to a firm that could reasonably be expected to support the achievement of the restructuring objective of this SoP.

4.2 Firms should consider whether their recovery options would represent restructuring options. In this context, 'recovery options' means options that firms must identify to meet PRA Rules and expectations regarding the content of recovery plans and group recovery plans.² To inform this, firms should consider the possibility that some recovery options may have been undertaken in an attempt to recover and so may no longer be available once the firm is in resolution. Firms should also consider the possibility that some recovery options are not sufficient to address issues that may arise in the event of resolution.

4.3 Firms should also be able to identify any restructuring options that have not been identified as recovery options. This includes options that would support the restructuring objective but would not be expected to help restore the firm's financial position. By way of example, this could include options that:

- (a) have significant business model implications and would only be expected to deliver benefits in the long term; or
- (b) would not themselves deliver capital or liquidity benefits when executed but would contribute to the overall achievement of the restructuring objective.

4.4 As part of this analysis, firms should be able to identify whether the solvent wind-down of their trading activities represents a restructuring option.

4.5 In identifying restructuring options, firms should have regard to the regulatory requirements that will continue to apply in resolution (including, where relevant, ring-fencing requirements).

¹ The consideration of restructuring in resolution is likely to take place once a firm has entered into resolution. However, an initial consideration of restructuring options may also be needed during the pre-resolution contingency planning period to help inform the Bank's decisions around the application of resolution powers. The stylised resolution timeline set out in the Bank's Approach to Assessing Resolvability SoP provides further detail on this process.

² This includes the Recovery Plans part of the PRA Rulebook, and PRA Supervisory Statement (SS) 9/17 'Recovery Planning', available at: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2017/ss917.pdf>.

Principle 2: Evaluation of restructuring options

4.6 Firms should be able to provide information to support the evaluation of their identified restructuring options during resolution and pre-resolution contingency planning. This includes the evaluations that may be undertaken by the relevant authorities and by the management and board of the firm or its ultimate parent as part of developing or reviewing the firm's restructuring plan. For firms whose preferred resolution strategy is Bank-led bail-in, this could also include evaluations undertaken by a Bail-in Administrator appointed by the Bank.

4.7 As a starting point, firms should consider the information that must be provided to support the viability and credibility of recovery options, as set out in the PRA Supervisory Statement 'Recovery Planning' (SS9/17). In addition, firms should be able to provide further information and analysis on the viability and credibility of restructuring options as needed to meet the planning objective of this SoP. This further information includes, but is not limited to:

- (a) information on the financial and regulatory capital impacts of restructuring options (and sensitivity analysis around these), as set out in the Bank's Statement of Policy on valuation capabilities to support resolvability;¹
- (b) information on the liquidity needs and sources of the firm reflecting proposed restructuring options (and sensitivity analysis around these), as set out in the Bank's Statement of Policy on Funding in Resolution;²
- (c) information on the operational arrangements that would support or be impacted by restructuring options, as set out in the PRA's rules and expectations on operational continuity in resolution;³ and
- (d) where relevant, information on trading book solvent wind down, as may be produced in line with PRA solvent wind-down exercises or any PRA policy regarding this.

4.8 Firms should consider how this information would be accessed and used to support the timely evaluation of restructuring options during resolution and pre-resolution contingency planning. As part of this, firms should consider how they would co-ordinate with relevant parties to ensure that information would be produced or retrieved as required. Firms should also consider how they would combine, analyse, and present information to meet the planning objective of this SoP.

Principle 3: Planning for execution of restructuring options

4.9 Firms should be able to determine and describe how they would execute their identified restructuring options. This should inform, and be informed by, the evaluation of restructuring options referred to in Principle 2.

4.10 Firms should be able to describe their options in sufficient detail for the options to be actionable by the firm and to be deemed credible by the Bank. In doing so, firms should be able to meet the planning objective of this SoP.

4.11 Firms should consider the extent to which the description of recovery options in their recovery plans could be relied on for this purpose. Firms should be able to describe how they would execute restructuring options that are not described in their recovery plan. Firms should also consider what

¹ 'The Bank of England's Statement of Policy on valuation capabilities to support resolvability' <https://www.bankofengland.co.uk/-/media/boe/files/paper/2018/the-bank-of-englands-policy-on-valuation-capabilities-to-support-resolvability.pdf?la=en&hash=AC3DE6BDCAC29EF04F634757E95D9E4263F757B5>.

² Bank of England (2019) 'The Bank of England's statement of policy on funding in resolution' available at: <https://www.bankofengland.co.uk/-/media/boe/files/paper/2019/bank-of-england-funding-in-resolution-sop.pdf>.

³ This includes the Operational Continuity part of the PRA Rulebook and Supervisory Statement SS9/16 'Ensuring operational continuity in resolution', available at www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2016/ss916. At the point of publication these policies were under review. References to this policy will updated as appropriate following the outcome of this review.

detail may be needed beyond what is provided in their recovery plans in order to meet the objectives of this SoP.

Principle 4: Documentation and assurance

4.12 Firms should consider the extent to which they would need to maintain documentation in business-as-usual in order to meet the planning objective of this SoP. In doing so firms should consider the availability of documentation produced for other purposes (such as recovery planning).

4.13 Firms should assess the effectiveness of their restructuring planning capabilities with regard to the principles set out in this SoP. Firms should consider how their assessments of other relevant capabilities would support the assessment of their restructuring capabilities. This includes assessments undertaken as part of recovery planning and the Resolution Assessment Part of the PRA Rulebook.¹

4.14 Where firms identify shortcomings in their capabilities, they should take measures to ensure they meet the objectives and principles set out in this SoP.

5 Timeframe for compliance

5.1 Firms should be compliant with this SoP by 1 January 2022.

5.2 The Bank may on a firm-specific basis set an earlier compliance date, for example where the Bank has concerns about the resolvability of a firm.

5.3 The Bank may also set a firm-specific compliance date where a firm that was not previously within scope becomes within scope of this SoP. This might occur if the preferred resolution strategy applicable to the firm changes, or if the firm becomes 'material' for the purposes of setting internal MREL. In these cases, the Bank will determine the appropriate compliance date on a firm-specific basis, and expects to allow firms at least 18 months for compliance.

¹ PRA PS15/19 'Resolution assessment and public disclosure by firms' at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/resolution-assessment-and-public-disclosure-by-firms>.