



BANK OF ENGLAND

Resolution

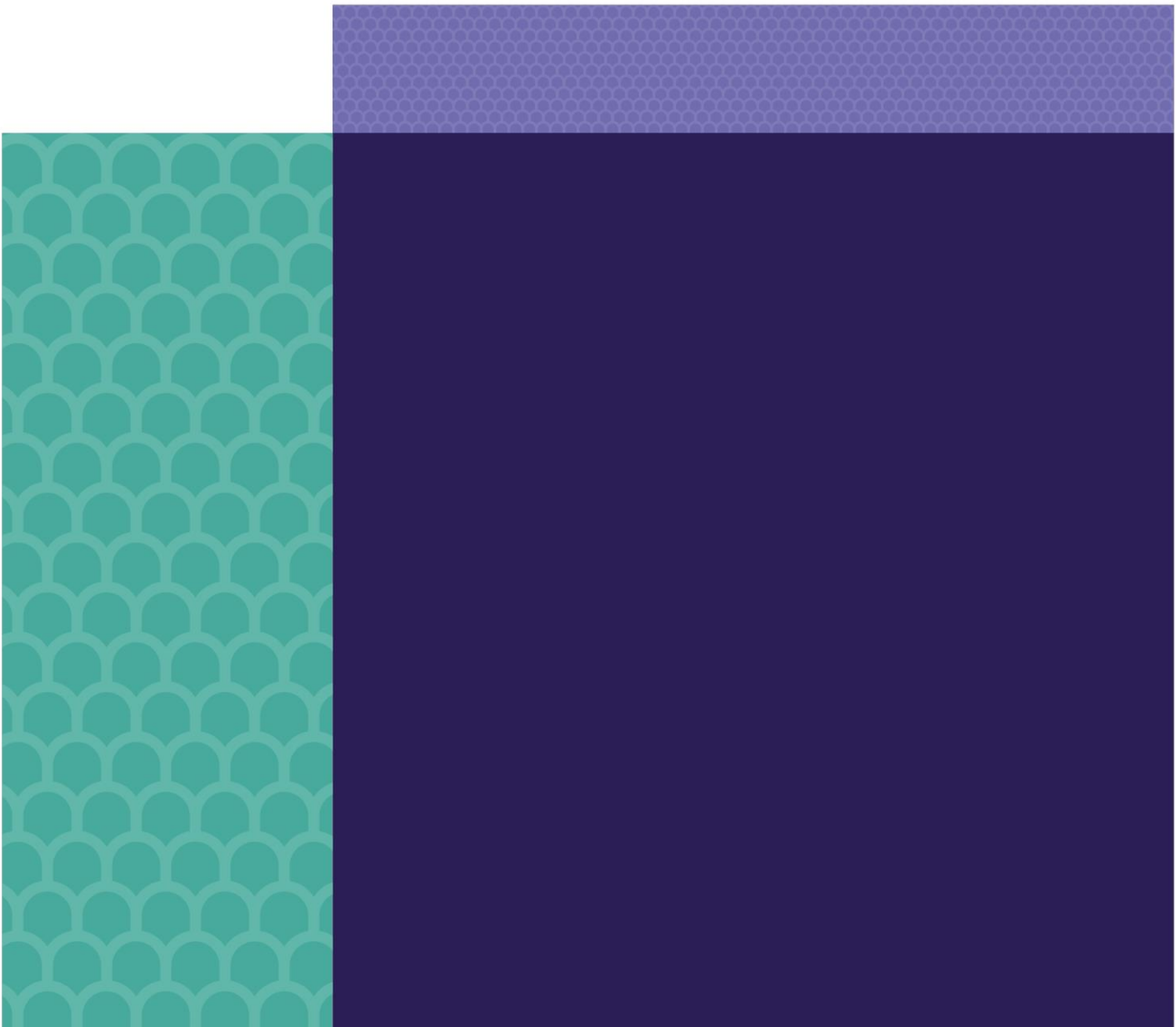


Statement of Policy

# The Bank of England's Approach to Assessing Resolvability

May 2021

(Updating July 2019)





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This SoP should be read in light of updates to the Bank's MREL SoP. Please see <https://www.bankofengland.co.uk/paper/2021/the-boes-approach-to-setting-mrel-sop>

# Statement of Policy: The Bank of England's Approach to Assessing Resolvability

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## 1 Background

1.1 The Resolvability Assessment Framework (RAF) consists of three elements:

- the Bank's approach to assessing firms' resolvability including the outcomes firms must, as a minimum, be able to achieve to be considered resolvable;
- a requirement for certain firms to carry out an assessment of their preparations for resolution, to submit a report of that assessment to the PRA and publish a summary of that report ('public disclosure') contained within the Resolution Assessment Part of the PRA Rulebook; and
- the publication of a statement by the Bank concerning the resolvability of each firm which makes an assessment.

1.2 The Bank believes that further transparency around the resolution regime and the progress made by individual firms towards being considered resolvable will foster greater understanding of the resolution regime. This should incentivise firms to take steps to embed changes to enhance their resolvability. Greater transparency will also be important for investors and shareholders when assessing the risks they face should a firm fail.

## 2 Statutory framework and scope

2.1 This Statement of Policy (SoP) is issued by the Bank of England (Bank), as UK resolution authority, in accordance with section 3B(9) of the Banking Act 2009, as amended (the Banking Act). This SoP sets out how the Bank intends to operate the RAF, and how it may use its powers under section 3A(2) of the Banking Act to direct a 'relevant person' to take measures to address impediments to resolvability.

2.2 A 'relevant person' means:

- (a) an institution<sup>1</sup> authorised for the purpose of the Financial Services and Markets Act 2000 (FSMA) by the Prudential Regulation Authority (PRA) or Financial Conduct Authority (FCA);<sup>2</sup>
- (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 institution authorised by the PRA or FCA; and (ii) is established in, or formed under the law of any part of, the United Kingdom.

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<sup>1</sup> 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'.

<sup>2</sup> 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.

2.3 This SoP applies to institutions<sup>1</sup> where:

- (a) the Bank, as home resolution authority, has notified them that their preferred resolution strategy is bail-in or partial-transfer, i.e. that the Bank would expect the strategy to involve the use of its stabilisation powers; or
- (b) in its capacity as host resolution authority, the Bank has notified them that they are a 'material subsidiary' of an overseas-based banking group for the purposes of setting internal MREL in the UK.<sup>2</sup>

2.4 Hereafter, references to 'firms' should only be taken to include those institutions that meet the criterion set out in paragraphs 2.3 (a) and (b), unless otherwise stated.

2.5 The Bank's assessment of firms' resolvability will also take into account the capabilities of the entire resolution group where relevant.<sup>3</sup> Accordingly, the Bank considers that firms may be able to rely on capabilities across the resolution group, where appropriate to achieve the resolvability outcomes.

2.6 In particular, for hosted material subsidiaries, the Bank would expect to support resolution actions by the home authorities. As such, the Bank will assess whether the capabilities of the resolution group would deliver broadly comparable resolvability outcomes to those set out in this SoP. To support this the Bank engages with international counterparts bilaterally and in other fora such as Crisis Management Groups (CMGs).

2.7 This SoP does not apply to the UK branches of overseas banking groups. The Bank engages with international counterparts regarding the resolvability of these branches. The resolvability outcomes in this SoP will therefore inform this engagement and so will be of interest to overseas banking groups in this context. The SoP also provides relevant context for the Bank's engagement (in its capacity as UK resolution authority) with the PRA in respect of the authorisation and supervision of the UK branches of overseas banking groups, as set out in the PRA's approach to branch authorisation and supervision of international banks.<sup>4</sup>

2.8 The Bank is required to conduct statutory resolvability assessments on an annual basis. Further information on these assessments is provided in chapter 9 of this SoP. The RAF does not replace these assessments, rather it will provide information to the Bank which the Bank will use as part of fulfilling its legal requirement to assess the resolvability of firms.

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<sup>1</sup> References to 'institution' shall be taken to also include 'relevant persons'.

<sup>2</sup> 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>.

<sup>3</sup> Each resolution entity, together with its subsidiaries that are not themselves resolution entities, form a 'resolution group'.

<sup>4</sup> Bank of England (2018) 'International banks: the Prudential Regulation Authority's approach to branch authorisation and supervision' PRA Supervisory Statement SS1/18 available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/international-banks-pras-approach-to-branch-authorisation-and-supervision-ss>. The PRA's general approach to branch authorisation and supervision, which applies to all branches, is anchored by an assessment of a range of factors including the extent to which the PRA, in consultation with the Bank of England (the Bank) acting in its capacity as the UK resolution authority, has appropriate assurance over the resolution arrangements for the firm and its UK operations.

### 3 Resolvability Outcomes

3.1 To be considered resolvable firms must, as a minimum, be able to achieve these outcomes:

- (a) Have adequate financial resources in the context of resolution: Ensure that it has the resolution-ready financial resources available to absorb losses and recapitalise without exposing public funds to loss. This includes resources to meet its financial obligations in resolution. This is necessary to allow the authorities to keep the firm operating as described below. This means that firms must:
  - - meet the 'minimum requirements for eligible liabilities' (MREL) appropriately distributed across its business;
  - - be able to support a timely assessment of its capital position and recapitalisation needs; and
  - - be able to analyse and mobilise liquidity in resolution.
- (b) Be able to continue to do business through resolution and restructuring: Ensure that the firm's activities can continue while the authorities take charge and begin to restructure the firm in such a way that the business can be reshaped, including any parts of it being sold or wound down (as appropriate). This includes ensuring that the resolution does not result in the firm's financial and operational contracts being materially disrupted or terminated and that direct or indirect access to services delivered by financial market intermediaries is maintained. This is essential to having a continuing business that can be returned to long-term viability through restructuring. It also means building on recovery planning work so that the operational and support services needed for a viable business can be identified, separated and reorganised to support restructuring options.
- (c) Be able to coordinate and communicate effectively within the firm and with the authorities and markets so that resolution and subsequent restructuring are orderly.

3.2 The Bank has identified generic impediments to resolvability. These were developed to be consistent with the barriers identified by the Financial Stability Board (FSB).<sup>1</sup> On the basis of this work, the Bank has developed domestic policy it requires firms to meet for eight barriers to resolvability. The Bank will use the RAF as the basis for assessing the implementation of these policies.

3.3 The barriers described in this SoP should not be considered as an exhaustive list. In order to achieve the three resolvability outcomes, firms will also need to consider how their specific structure and or business model may prevent the resolvability outcomes from being achieved. This should include whether there are any additional barriers to satisfying the outcomes, beyond those elaborated in this SoP and how these barriers should be removed. Where firms consider requirements from other jurisdictions may be relevant for their resolvability, these should also be taken into consideration.

3.4 Firms whose preferred resolution strategy is Bank-led bail-in should use the stylised resolution timeline, set out in Annex 1 and Annex 2 of this SoP, when considering the capabilities, resources and arrangements they will need to have in place to achieve the resolvability outcomes. Firms should also consider how their specific structure and business model may complicate the application of a bail-in. A firm's assessment of its preparations for resolvability, where required by the Resolution Assessment Part of the PRA Rulebook, should explain how the firm has removed these barriers.

3.5 The capabilities necessary for removing each barrier to resolvability should not be considered in isolation. Firms should take a holistic approach to resolvability and consider how different capabilities developed for each barrier will interact with one another and how they can be embedded in their

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<sup>1</sup> FSB (2018) 'Resolution Report: "Keeping the pressure up"' available at: <https://www.fsb.org/wp-content/uploads/P151118-1.pdf>. The Bank uses the term 'barriers' as a more common usage term for 'impediments'.

internal processes. Firms are encouraged to leverage existing capabilities in order to achieve the resolvability outcomes.

3.6 The Bank will be proportionate in the way that it assesses firms' resolvability. While all firms should meet the resolvability outcomes, the depth and type of capabilities required to remove barriers to resolvability will depend on the firm's size and the nature of its business model.

### **Resolution Strategy Implications**

3.7 Firms' resolution strategies have implications for what capabilities they need to be resolvable.

#### **Multiple point of entry (MPE) bail-in**

3.8 Under a MPE strategy, certain host authorities may apply resolution powers to entities under their control within a consolidated group, in coordination with the home authority. Separation within the consolidated group could occur at or in close proximity to the point of resolution. Each entity to which resolution powers would be applied is a resolution entity. Each resolution entity, together with its subsidiaries that are not themselves resolution entities, form a 'resolution group'.

3.9 Notwithstanding paragraph 2.5, in assessing resolvability for all MPE firms, the Bank will take into account any factors relevant to the MPE strategy for the firm, including how resolution groups in other jurisdictions would be resolved, any interdependencies between the UK resolution group and resolution groups in other jurisdictions, and any resulting barriers to resolution. This would be likely to include considering the degree of financial and operational separability of its UK resolution group, for instance related to booking and risk-management practices or access to critical FMIs, and relevant structural issues, for instance arising from inter-resolution group exposures.

3.10 For MPE firms where the Bank is the home resolution authority, the Bank is responsible for applying stabilisation powers to the UK resolution group. The Bank would therefore assess the resolvability of the UK resolution group in a similar manner to single point of entry (SPE) firms. The Bank is also responsible for the overall coordination of the resolution process, and will therefore assess how such firms' capabilities enable the resolution of the whole group to occur in a coordinated way.

3.11 The Bank does not however, intend to assess the implementation or effectiveness of policies employed for resolution groups other than the UK resolution group. The Bank may, in forming its views on resolvability, consider the views of host authorities in so far as they pertain to the overall implementation and coordination of the resolution at group level.

3.12 For MPE firms where the Bank is the host resolution authority, the Bank is responsible for using stabilisation powers in respect of the UK resolution group. As such, the Bank will look for the UK resolution group to meet all of the proposals set out in this Statement of Policy in the same way as domestic firms.

#### **Partial-transfer**

3.13 This SoP also applies to firms with a preferred resolution strategy of partial-transfer. Firms should take into account differences between partial-transfer and bail-in resolution strategies when they develop the capabilities, resources and arrangements necessary to achieve the resolvability outcomes. The Bank will work with firms bilaterally to support their understanding of these differences.

#### **Changes to a firm's preferred resolution strategy**

3.14 Should the Bank change, or anticipate changes to, a firm's preferred resolution strategy the Bank will work with firms bilaterally to support their understanding of the capabilities they may need to develop as a result. A change in preferred resolution strategy may occur, for example, due to a firm's growth or changes to its structure, business or financial position.



## 4 Outcome: adequate financial resources

4.1 To meet the adequate financial resources outcome for resolvability, firms will need to (at a minimum) have capabilities, resources, and arrangements in place to meet relevant Bank and PRA policies relating to:

- The minimum requirement for own funds and eligible liabilities (MREL);
- Valuations; and
- Funding in Resolution.

### The minimum requirement for own funds and eligible liabilities (MREL)

#### Policy Background

- The Bank published a SoP on its approach to setting MREL for the resolution entity in a group (referred to as external MREL) in November 2016 (the MREL SoP). The MREL SoP was updated in June 2018 to include the Bank's policy on how MREL resources should be maintained by material subsidiaries that are not themselves resolution entities (internal MREL).<sup>1</sup>
- MREL must be set in line with the provisions of the Banking Act 2009, the Bank Recovery and Resolution (No. 2 Order) 2014, the BRRD and the European Commission Delegated Regulation (EU) 2016/1450 (the MREL RTS), subject to the considerations regarding EU's revised legislation on capital requirements and resolution in Box 1 below The Bank also considers the FSB's total loss-absorbing capacity (TLAC) standard ('FSB TLAC standard') when setting MREL.
- The MREL SoP sets out the framework used by the Bank for setting MREL, including calibration, the eligibility criteria for MREL eligible liabilities, how the Bank takes the preferred resolution strategy of a firm into account and how MREL is applied in the context of groups. It also specifies interim and end-state compliance dates for MREL.
- The PRA Supervisory Statement SS16/16 'The minimum requirement for own funds and eligible liabilities (MREL) - buffers and Threshold Conditions' (as updated in December 2017) sets out PRA expectations regarding the interaction between MREL, the capital framework and the PRA Threshold Conditions.<sup>2</sup>
- In addition to this, in June 2018 the PRA set out its expectations on MREL reporting by updating SS19/13 'Resolution planning' and providing templates and guidance for firms whose MREL is in excess of regulatory capital requirements.<sup>3</sup>

4.2 **Objective:** To be considered resolvable firms should maintain a sufficient amount of resources that can credibly and feasibly be used to absorb losses and recapitalise them to a level that enables them to continue to comply with the conditions for regulatory authorisation and sustain market confidence.<sup>4</sup>

4.3 In assessing whether a firm has met this objective, the Bank will consider how firms have implemented the Bank and PRA's policies relating to MREL and how firms have met the following

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<sup>1</sup> 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>.

<sup>2</sup> Update on 16 July 2019 <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/the-minimum-requirement-for-own-funds-and-eligible-liabilities-mrel-ss>.

<sup>3</sup> Bank of England (2015) 'Resolution Planning: MREL reporting' PS11/18 available at <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/resolution-planning-mrel-reporting>.

<sup>4</sup> For firms with a partial-transfer preferred resolution strategy, recapitalisation may be limited to the level that (i) ensures that the transfer does not undermine the capital position of a private sector purchaser or (ii) enables a new bridge bank to be adequately capitalised.

principles (subject to the considerations regarding the EU's revised legislation on capital requirements and resolution in Box 1 below).

### Principle 1: Loss-absorbing resources and monitoring

4.4 Firms need to have arrangements and systems in place to monitor their MREL position appropriately, including to allow them to meet the PRA's expectations outlined in SS19/13. When monitoring their MREL position, firms should have particular regard to the:

- current and projected stock of MREL resources and, where applicable, their maturities; and
- contractual provisions and features of individual instruments and issuances of instruments, especially in relation to eligibility criteria set out in the MREL SoP.

4.5 In monitoring their stock of MREL resources, firms should consider whether loss-absorbing instruments issued by entities within their group comply with the relevant requirements in non-European Economic Area (EEA) jurisdictions, as set by the relevant overseas-based authorities (for example, the amount of any such requirement and relevant eligibility criteria), where applicable. In particular, firms with an MPE preferred resolution strategy should assess their current and future consolidated external MREL resources in the context of that strategy, taking into account the sum of requirements relating to each of their resolution groups and entities or sub-groups located outside those resolution groups.<sup>1</sup>

4.6 As articulated in paragraph 6.4 of the MREL SoP, the Bank expects that MREL surplus, that is the difference between external MREL and the sum of what must be issued to the resolution entity as internal loss-absorbing resources (to meet internal MREL or other equivalent loss-absorbing capacity requirements), if any, should be readily available to recapitalise any direct or indirect subsidiary, as necessary to support the execution of the preferred resolution strategy and there should be no legal or operational barriers to this.

4.7 Firms should also ensure that their plans for creating future MREL resources are achievable with reasonable confidence and consistent with their business plans and expected market issuance conditions for MREL instruments. In this regard, firms should consider whether their assessment or plans would change following or during a period of idiosyncratic stress or broader financial instability.

### Principle 2: Write-down and/or conversion of external and internal MREL instruments in resolution

4.8 As noted in paragraphs 5.12 and 8.12 of the MREL SoP, the responsibility for ensuring that liabilities, including own funds instruments, are eligible to meet MREL rests with institutions. As noted in paragraph 5.1 of the MREL SoP, in order for MREL resources to fulfil their intended purpose, it must be practically straightforward for the Bank to apply its stabilisation powers to them, including the bail-in stabilisation power.

4.9 Firms need to assess their MREL resources against the provisions of the MREL SoP. In addition, specific examples are provided in the MREL SoP where firms are expected to assess carefully any difficulties that may arise in writing down and/or converting MREL resources in resolution, as a result of the specific features that some of those resources may have. For example:

- as explained in paragraph 5.10 of the MREL SoP, firms should consider cases (either outside or in the course of resolution proceedings) where it is not possible to write down and/or convert any non-CET1 own funds instruments to CET1 using statutory powers;

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<sup>1</sup> The Bank requirements on group consolidated MREL for MPE groups are set out in paragraphs 6.8 and 6.9 of the MREL SoP.

- as mentioned in paragraph 5.11 of the MREL SoP, firms should consider the challenges to resolvability from having non-CET1 own funds instruments issued from non-resolution entity subsidiaries to holders outside their group after 1 January 2022;
- firms should ensure that contractual triggers in internal MREL instruments meet the requirements set out in paragraphs 8.8 and 8.9 of the MREL SoP. Where a contractual trigger provides for write-down only or conversion only, firms need to be able to demonstrate that this credibly supports the group preferred resolution strategy and the passing of losses and recapitalisation needs to the resolution entity; and
- firms should also consider whether the absence in any non-CET1 own funds instruments, of such contractual triggers, covering the circumstances described in paragraph 8.8(b) of the MREL SoP, could create difficulties for resolution.

4.10 In addition to the examples above, firms should assess carefully any difficulties that may arise in writing down and/or converting MREL instruments in resolution as a result of the specific features of these instruments.

### Principle 3: the Role of internal MREL in supporting the preferred resolution strategy

4.11 As described in paragraph 8.4 of the MREL SoP, firms should ensure that the issuance of internal MREL by a material subsidiary or sub-group credibly supports the preferred resolution strategy and the passing of losses and recapitalisation needs to the resolution entity. In cases of direct or indirect issuance to the resolution entity that is not along the chain of ownership, therefore, firms need to assess circumstances in which writing down or converting internal MREL-eligible resources could result in a change of control of the subsidiary or subgroup, and whether there would be significant governance, accounting, legal or tax issues as a result.

4.12 Firms also need to consider whether there could be any impact on their resolvability caused by differences in form (such as equity or debt, maturity, currency, interest rate, and other terms and covenants) between internal MREL resources of a material subsidiary and MREL issued externally from the resolution entity.

### Principle 4: Clean holding company

4.13 Firms that issue external MREL from a resolution entity that is a holding company should consider whether the assets and liabilities held by that resolution entity present challenges to the preferred resolution strategy. Such firms should have particular regard to on-balance sheet and off-balance sheet liabilities that may rank *pari passu* with any MREL resources, as mentioned in paragraph 6.3 of the MREL SoP, noting that the sum of liabilities that do not qualify as MREL should not exceed 5% of the overall external MREL resources of the resolution entity or 10% of the resolution entity's MREL resources in the same creditor class.

### Principle 5: Documentation and internal policies

4.14 Documentation that is relevant to a firm's MREL position should be maintained in a way that can be made easily available to the Bank, when requested. This includes, where appropriate, independent legal advice that the firm received in relation to the eligibility of instruments for MREL purposes, for instance in order to determine whether a decision by the Bank to direct the write-down and/or conversion of instruments issued under third-country law would be effective and enforceable.

4.15 Firms should develop robust internal policies detailing, for example, targets in terms of issuance of external and/or internal MREL resources and any actions that may be taken if those targets are not met. Those policies may take the form of risk appetite statements and should specify the processes to be followed when issues are identified, the governance bodies and/or senior managers who are accountable for decision-making, and the timing of any remedial actions.

### Box 1 - EU's revised legislation on capital requirements and resolution

Regulation EU/2019/876, amending Regulation EU/575/2013, (CRR II) was published in the Official Journal of the European Union on 7 June 2019.

The CRR II introduced requirements for UK G-SIBs and UK material subsidiaries of non-EU G-SIBs in respect of 'own funds and eligible liabilities', which were directly applicable from 27 June 2019. The Bank has communicated directly with firms affected, who should read the MREL SoP and this Statement of Policy, including the definitions of MREL and internal MREL, subject to the new CRR II requirements. As previously communicated, the Bank is also committed to, before the end of 2020, reviewing the calibration of MREL, and the final compliance date, prior to setting end-state MRELS. In doing so, the Bank will have regard to any intervening changes in the UK regulatory framework, including the revision of BRRD and CRR, as well as firms' experience in issuing liabilities to meet their interim MRELS.

## Valuations

### Policy Background

- In June 2018, the Bank published its policy on valuation capabilities to support resolvability (the 'Valuations SoP').<sup>1</sup> The Bank and PRA announced on 7 May 2020 measures to alleviate operational burdens on firms in response to the Covid-19 outbreak.<sup>2</sup> Among these measures, the Bank announced the compliance deadline for the Bank's Statement of Policy on Valuation capabilities to support resolvability had been extended by three months from 1 January 2021 to 1 April 2021. Firms should be compliant with the Valuations Statement of Policy by 1 April 2021 unless otherwise communicated by the Bank.
- The policy sets out the Bank's overall objectives for the timeliness and robustness of resolution valuations. The policy also sets out seven principles for the capabilities that certain firms<sup>3</sup> should have in place to support these objectives. These principles relate to the data and models firms should have in place to support resolution valuations, as well as the governance, documentation, and assurance arrangements around these.
- The Bank wrote to firms in scope of the Valuations SoP in November 2018 to provide firms with guidance on valuation capabilities to support resolvability.<sup>4</sup> This guidance is non-binding. It aims to support implementation of the Valuation SoP by illustrating what may be needed to support timely and robust resolution valuations.
- The Bank's policy is consistent with the FSB principles on bail-in execution published in June 2018.<sup>5</sup> The Bank contributed to the development of these principles and has in turn sought to reflect them in its policy design. In particular, the policy has reflected that:
  - (a) firms will need to have systems in place to support timely valuations;
  - (b) the specific assumptions and methodologies applied in resolution valuations should ultimately be at the discretion of an independent valuer; and
  - (c) in cross-border resolutions, valuations should be led by the home authority, with input from host authorities where relevant.

<sup>1</sup> Bank of England (2018) 'The Bank of England's policy on valuation capabilities to support resolvability': available at <https://www.bankofengland.co.uk/paper/2018/the-boes-policy-on-valuation-capabilities-to-support-resolvability>

<sup>2</sup> Bank of England (2020) 'Statement by the Bank of England and Prudential Regulation Authority on resolution measures and Covid-19' available at: <https://www.bankofengland.co.uk/news/2020/may/statement-by-the-bank-of-england-and-pra-on-resolution-measures-and-covid-19>.

<sup>3</sup> The Scope of this policy is set out in paragraph 2.1. of the Valuations SoP.

<sup>4</sup> Bank of England (2018) 'Guidance on valuation capabilities to support resolvability': available at <https://www.bankofengland.co.uk/letter/2018/guidance-on-valuation-capabilities-to-support-resolvability>.

<sup>5</sup> FSB (2018) 'Principles on Bail-In Execution' available at: <http://www.fsb.org/2018/06/principles-on-bail-in-execution-2/>.

**4.16 Objective:** To be considered resolvable, firms should meet the objective of having valuation capabilities that would enable a valuer to carry out sufficiently timely and robust valuations to support effective resolution.

4.17 In assessing whether a firm has met this objective, the Bank will consider how firms have implemented the Bank's Valuations SoP. In summary, the principles of this SoP cover:

- **Data and information:** Firms should ensure that their underlying data and information is complete and accurate, and that relevant data and information would be readily available to a valuer.
- **Models:** As necessary to meet the timeliness and robustness objectives, firms should have models available to be tested and used by a valuer on a timely basis in carrying out the valuation analysis needed for resolution.
- **Methodologies:** Valuation models should use methodologies that are consistent with the methodologies a valuer could reasonably be expected to apply in producing valuations that meet the robustness objective.<sup>1</sup>
- **Assumptions:** Firms should have processes that support the use of realistic valuation assumptions, and should enable a valuer to review and revise, and demonstrate sensitivity to these assumptions if necessary.
- **Governance:** Firms should apply sound governance arrangements and processes to ensure that valuation capabilities compliant with these principles are maintained in business-as-usual and available prior to and during resolution.
- **Documentation:** Firms should clearly and concisely document their valuation capabilities and how these could be relied upon to produce timely and robust resolution valuations.
- **Assurance:** Firms should periodically review and evaluate their valuation capabilities with regard to these principles, and should facilitate reviews undertaken by the Bank or a third party to test compliance.

4.18 In particular, the Bank will consider how firms' capabilities would support the actions and decisions needed within the stylised resolution timeline, set out in Annex 1 and Annex 2 of this SoP, by enabling a valuer to produce timely and robust valuations. This includes by having regard to the need:

- for a firm to co-ordinate effectively around the valuations process (including by providing a valuer with timely access to relevant data and information, documentation, model outputs, and staff);
- for a valuer to be able to rapidly familiarise themselves with a firm's capabilities and assess their reliability (including through the review of the firm's data, models and testing and oversight already undertaken in business-as-usual); and
- to carry out multiple iterations of the valuations in order to assess sensitivities, to reflect a valuer's independent expert judgement and to reflect the resolution and restructuring actions being considered (including through the use of firms' models).

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<sup>1</sup> The robustness objective is set out in paragraph 3.3 of the Valuations SoP.

## Funding in Resolution

### Policy Background

- Both a firm's liquidity position in resolution and the availability of funding sources are inherently uncertain prior to the firm entering resolution. However, establishing this with as much clarity as possible is a priority, because doubts about the ability of the firm to pay its obligations as they fall due could be self-fulfilling, compromising the success of the resolution.
- In August 2016, the FSB recognised this issue and issued its first publication specifically covering funding in resolution.<sup>1</sup> This outlines a set of guiding principles covering temporary funding to support the execution of the preferred resolution strategy of a G-SIB. The principles set out that private markets should be the preferred source of funding in resolution and detail ways to encourage and maintain this. To the extent such funding is not available or sufficient, the principles cover the role and types of public sector backstop funding mechanisms and how such mechanisms can be designed to minimise moral hazard.
- In line with the FSB guidance, the Bank has developed the Resolution Liquidity Framework (RLF). A firm in resolution would have access to the Bank's published facilities, as set out in the 'The Bank of England's Sterling Monetary Framework' (the Red Book),<sup>2</sup> subject to meeting the necessary eligibility criteria. The RLF acts as a supplement to the Bank's existing liquidity facilities and provides the tools to lend to banks, building societies or investment firms subject to stabilisation powers where the entity or its holding company is in a Bank-led resolution.
- In June 2018, the FSB published further guidance for authorities developing funding plans to ensure that a firm will have sufficient liquidity in resolution.<sup>3</sup> This identifies a number of key strategic elements for authorities to consider, as well as stating that authorities should ensure firms have:
  - (a) a methodology for estimating the liquidity needs of a firm to facilitate the successful execution of its preferred resolution strategy;
  - (b) processes for monitoring and reporting liquidity needs, liquidity sources, and the positioning of liquidity within the firm that would be available in resolution within an adequate timeframe; and
  - (c) processes for monitoring asset encumbrance and for identifying assets that can be mobilised as collateral across the group.
- Moreover, a number of going-concern policy standards developed by the Bank or the PRA align with the guidance contained in the FSB publications:
  - (a) as set out in SS9/17,<sup>4</sup> by 30 June 2019, firms were required to model their capital and liquidity profiles in various stressed scenarios where the firm is implementing recovery actions, including by detailing their currency needs by jurisdiction (where appropriate); and

<sup>1</sup> FSB (2016) 'Guiding principles on the temporary funding needed to support the orderly resolution of a global systemically important bank' available at: <http://www.fsb.org/wp-content/uploads/Guiding-principles-on-the-temporary-funding-needed-to-support-the-orderly-resolution-of-a-global-systemically-important-bank-“G-SIB”-pdf>.

<sup>2</sup> Bank of England (2015) 'The Bank of England's Sterling Monetary Framework' available at: <https://www.bankofengland.co.uk/-/media/boe/files/markets/sterling-monetary-framework/red-book>.

<sup>3</sup> FSB (2018) 'Funding Strategy Elements of an Implementable Resolution Plan' available at <http://www.fsb.org/wp-content/uploads/P210618-3.pdf>.

<sup>4</sup> Bank of England (2017) 'Recovery planning', PRA Supervisory Statement SS9/17 available at: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2017/ss917.pdf>.

- (b) as required by the PRA Rulebook: CRR Firms: Internal Liquidity Adequacy Assessment Instrument (2015),<sup>1</sup> firms need to develop an effective liquidity contingency plan. Additionally, firms need to undertake regular liquidity stress testing and analysis of possible future liquidity stresses, as well as maintaining adequate liquidity resources at all times in going concern, and actively managing their liquidity risk exposures.
- In July 2019, the Bank published its SoP on funding in resolution.<sup>2</sup> This SoP sets out objectives and capabilities that certain firms are expected to meet in order to avoid a determination that insufficient funding in resolution capabilities constitute a barrier to resolvability.

4.19 **Objective:** To be considered resolvable firms should ensure they can continue to meet their obligations as they fall due, are able to estimate, anticipate and monitor their potential liquidity resources and needs and mobilise liquidity resources in the approach to and throughout resolution.

4.20 In assessing whether a firm has met this objective, the Bank will consider how firms have implemented the Bank's policies on Funding in Resolution, in particular the Bank of England's Statement on Policy on Funding in Resolution.<sup>3</sup>

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<sup>1</sup> PRA Rulebook: CRR Firms: Internal Liquidity Adequacy Assessment Instrument (2015) available at: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2015/ps1115>.

<sup>2</sup> 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>.

<sup>3</sup> 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>.

## 5 Outcome: continuity and restructuring

5.1 To meet the continuity and restructuring outcome for resolvability, firms will need to (at a minimum) have capabilities, resources, and arrangements in place to meet relevant Bank and PRA policies relating to:

- Continuity of financial contracts (stays);
- Operational continuity in resolution;
- Continuity of access to FMIs; and
- Restructuring planning.

### Continuity of financial contracts in resolution (stays)

#### Policy Background

- The Banking Act includes provisions to ensure a firm's entry into resolution does not, by itself, trigger contractual early termination rights or other rights under the contract normally triggered by an 'event of default'. This general stay lasts as long as the firm in resolution continues to perform its substantive obligations under the contract. The Bank, as resolution authority, also has the power to suspend temporarily the failed firm's payment and delivery obligations, including preventing counterparties from terminating their contracts with the firm or enforcing security interests created by the firm.
- The Banking Act general and temporary stay (jointly referred to as 'stay') powers apply to contracts governed by UK and EEA laws but may not be effective in relation to contracts governed by third-country laws. The FSB issued guidance in 2015 to highlight the benefits of contractual and regulatory measures that ensure such third-country law contracts are not terminated on entry into resolution.
- The PRA published the PRA Stay in Resolution Rules (PRA Stay Rules)<sup>1</sup> in November 2015 requiring certain types of new financial contracts to contain contractual terms requiring the counterparty to recognise the application of a stay imposed under the UK resolution regime.

5.2 **Objective:** To be considered resolvable firms should suitably address the risk of early termination of financial contracts upon entry into resolution to limit any impact on their stability and the wider financial system (i.e. market contagion) that may otherwise occur as a result of resolution.

5.3 In assessing whether a firm has met this objective, the Bank will consider how the firm has implemented the PRA Stay Rules and how the firm has met the following principles:

#### Principle 1: Compliance and monitoring capabilities

5.4 The BRRD empowers resolution authorities to require a firm to maintain detailed records of financial contracts<sup>2</sup> with further requirements set out in Commission Delegated Regulation (EU) 2016/1712. Firms should be able to quickly identify their counterparties and gather key information about their financial contracts, including contract values (both notional and market).

#### Principle 2: Legal capabilities

<sup>1</sup> 'PRA Stay Rules' refers to final rules contained in Bank of England (2015) 'Contractual stays in financial contracts governed by third-country law' PS25/15, available: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2015/ps2515>, and in the Stay in Resolution part of the PRA Rulebook.

<sup>2</sup> Article 71(7) BRRD.



5.5 In SS42/15, referred to in the policy background, firms are expected to satisfy themselves that they are in compliance with the PRA Stay Rules and be able to demonstrate compliance. For financial contracts in scope of the PRA Stay Rules that are remediated bilaterally in a bespoke manner (i.e. without using standard market protocols), firms should be able to demonstrate to the Bank that the counterparty has agreed in an enforceable manner that they will recognise a stay under the UK resolution regime.

### Principle 3: Communication capabilities

5.6 Firms will need to be able to ensure a stay is effective in order to support resolvability. Firms should therefore:

- (a) have communications capabilities that can be used in pre-resolution contingency planning, if necessary, to engage with counterparties. These capabilities are likely to be consistent with those necessary to implement the communication plan included in the firm's recovery plan (see SS9/17 paragraph 2.85 and 2.86); and
- (b) have communications capabilities consistent with Principle 3 of the SoP on Management, governance and communication,<sup>1</sup> enabling firms to engage with counterparties as required during resolution.

### Principle 4: Understanding of the risk of early termination across a group

5.7 Firms may have financial contracts that are not governed by EEA law or subject to the PRA Stay Rules. To support resolvability, firms should have a clear understanding of any risk of early termination of these 'out of scope' financial contracts. This understanding is important in order for firms to know of any significant risk of early termination for their business and the implications of this for the orderly implementation of the preferred resolution strategy. Firms should therefore be able to identify these financial contracts (including the notional and market amounts) and assess the risk of early termination.

### Principle 5: Governance and assurance

5.8 For resolvability purposes, firms should be able to explain to the Bank how their internal governance and assurance processes ensure that they satisfy the PRA Stay Rules and the principles above.

## Operational Continuity in Resolution (OCIR)

### Policy Background

- The FSB *Guidance on Arrangements to Support Operational Continuity in Resolution*, published in August 2016, describes the concept of operational continuity as the means of supporting continuity of the critical shared services that are necessary to maintain the provision, or facilitate the orderly wind down, of a firm's critical functions in resolution.<sup>2</sup> This supports the principles set out in the *FSB Key Attributes of Effective Resolution Regimes*.<sup>3</sup>
- In the UK, the Banking Act sets out special resolution objectives, which relevant authorities must have regard to when using, or considering the use of, resolution stabilisation powers. One of the objectives of the special resolution objectives is to ensure the continuity of banking services in the United Kingdom and of critical functions.<sup>4</sup>

<sup>1</sup> Bank of England (2019) 'The Bank of England's statement of policy on management, governance and communication' available at: <https://www.bankofengland.co.uk/-/media/boe/files/paper/2019/bank-of-england-management-governance-and-communication-sop.pdf>.

<sup>2</sup> FSB (2016) 'Guidance on Arrangements to Support Operational Continuity in Resolution' available at: <http://www.fsb.org/2016/08/guidance-on-arrangements-to-support-operational-continuity-in-resolution/>.

<sup>3</sup> FSB (2014) 'Key Attributes of Effective Resolution Regimes for Financial Institutions'. <https://www.fsb.org/work-of-the-fsb/policy-development/effective-resolution-regimes-and-policies/key-attributes-of-effective-resolution-regimes-for-financial-institutions/>.

<sup>4</sup> Section 4(3A) of the Banking Act 2009.

- In the UK, OCIR policy is set out in the Operational Continuity Part of the PRA Rulebook, and PRA Supervisory Statement 9/16 (collectively the 'PRA OCIR Policy').<sup>1</sup> In May 2021 the PRA published revised OCIR policy. The revised Operational Continuity Part and new SS4/21 will apply from 1 January 2023. OCIR policy sets requirements and expectations on firms to ensure their operational continuity arrangements with respect to critical services facilitate recovery actions, orderly resolution, and related restructuring.
- The Bank considers that the surest way to deliver the continuity objective described in this document is for most or all functions to continue through the 'resolution weekend' and the bail-in period, and for there to be continuity to allow post-resolution restructuring.
- In addition to critical functions, other business lines may need to continue to support the franchise and future viability of a firm. Furthermore, the disruption of banking services to customers and counterparties may undermine the process of restoring viability, even if these banking services are not themselves critical functions (for instance, due to loss of confidence or customer attrition). Given the cause of failure or the wider economic circumstances cannot be known in advance, the Bank cannot foresee the best way to restructure the firm to deliver a viable business that protects the critical functions required for financial stability and to meet the Bank's objectives.

**5.9 Objective:** To be considered resolvable firms should achieve the outcome of continuity by ensuring their operational continuity arrangements ensure continuity at the point of entry into resolution and permit post-stabilisation restructuring, to ensure the continuity of banking services and critical functions.

5.10 A firm's compliance with PRA OCIR policy is important for operational continuity in resolution and represents a significant step towards resolvability. In assessing whether a firm has met the objective in paragraph 5.9, the Bank will consider how a firm has implemented PRA OCIR policy.

5.11 The Bank will focus on whether a firm's operational continuity arrangements, both those arrangements that a firm maintains and embeds in business-as-usual, and the arrangements it makes and planning it undertakes specifically in preparation for actions in resolution, support resolvability. In particular, the Bank will consider:

- a firm's identification and documentation of its services and operational arrangements. The Bank considers this an essential component of a firm's ability to ensure operational continuity. Before and during resolution, it is important that relevant documentation and other information be accessible to the PRA, the Bank, and any Bank-appointed bail-in administrator. The information may need to be extracted, searched and leveraged for the purposes of ensuring continuity in resolution (e.g. to identify key staff required to maintain operations), and related restructuring (e.g. to support the preparation of the business reorganisation plan);
- arrangements that a firm has put in place to ensure continuity through the 'resolution weekend' and stabilisation period, especially in its early stages, such as resolution-resilient contracts. By remediating contracts, a firm ensures that resolution cannot be a cause of contracts ending while the firm is being resolved. Also, the Bank considers that, if unmitigated, there is a risk that entry into resolution could lead to temporary delays in payments from a firm to its service providers. The Bank will focus on arrangements a firm has made to ensure that payments are made in a timely manner and that its service providers would be financially resilient in resolution;

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<sup>1</sup> Bank of England (2016) 'Ensuring operational continuity in resolution' PRA Supervisory Statement SS9/16 available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/ensuring-operational-continuity-in-resolution-ss>. Bank of England (2021) 'Ensuring operational continuity in resolution' PRA Supervisory Statement SS4/21 available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/ensuring-operational-continuity-in-resolution-ss>.

- arrangements a firm has in place to ensure continuity through restructuring. During resolution, and subsequent restructuring, the firm is likely to undergo changes, and operational continuity will have to be maintained throughout to ensure a successful resolution. A firm should be able to demonstrate how it would be able to implement transitional service agreements (TSAs) in resolution and restructuring. These arrangements will enable services to be transferred from one provider to another with minimal disruption, as may be necessary to restructure a firm and return it to long-term viability. Elements such as objective service-level agreements, predictable and transparent charging structures, and change capabilities all contribute to the design and implementation of TSAs.
- 5.11A The Bank's assessment of firms' resolvability during 2021 and 2022 will focus on the PRA OCIR policy that came into force on 1 January 2019, taking into account the 1 January 2023 effective date for the PRA's revised OCIR policy.

### Operational continuity policy for cross-border resolution groups

- 5.11B Paragraphs 2.5-2.6 of this SoP set out that the Bank considers firms will be able to rely on capabilities across the resolution group and, in the case of hosted material subsidiaries, the Bank will assess whether group-wide capabilities would deliver broadly comparable outcomes to those set out in this SoP.
- 5.11C In addition, in assessing a hosted material subsidiary's resolvability, the Bank will consider how the identification and documentation of the firm's services, operational arrangements and resolution-resilient clauses in operational contracts, as well as predictable and transparent charging structures enable the resolution group to deliver broadly comparable outcomes to those set out in this SoP.

### Continuity of Access to Financial Market Infrastructure (FMIs)

#### Policy Background

- The FSB Guidance on Continuity of Access to Financial Market Infrastructures (FMIs) for a Firm in Resolution was published on 6 July 2017.<sup>1</sup> The Guidance sets out the measures and arrangements that FMI service providers, firms and authorities should consider in order to support continuity of access to FMI services in resolution.
- In general terms, BRRD prevents EU FMIs from using resolution as an automatic event of default which can be used as a ground for terminating a firm's membership. The same is true of some other jurisdictions, although resolution actions taken outside of the FMI's home jurisdiction may or may not be recognised. In either case, FMIs typically maintain discretion over increasing requirements on members both in the lead-up to and during the execution of a resolution strategy. Discretion is important for maintaining the stability of the FMI. It is important that firms engage with FMIs to understand how each individual FMI is likely to exercise their discretion.
- The UK authorities' joint discussion paper *Building the UK financial sector's operational resilience*<sup>2</sup> also includes relevant considerations for firms when they consider what might hinder maintaining continued access to FMIs in resolution.
- In July 2019, the Bank published its SoP on continuity of access to financial market Infrastructure.<sup>1</sup> This sets out objectives and capabilities that certain firms are expected to meet in order to avoid a

<sup>1</sup> FSB (2017) 'Guidance on Continuity of Access to Financial Market Infrastructures ('FMIs') for a Firm in Resolution' available at: <http://www.fsb.org/wp-content/uploads/P060717-2.pdf>.

<sup>2</sup> Bank of England, Financial Conduct authority (2018) 'Building the UK financial sector's operational resilience, PRA Discussion Paper 1/18, FCA Discussion Paper 18/04 available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/contractual-stays-in-financial-contracts-governed-by-third-country-law-ss>.

determination that insufficient capabilities to ensure continuity of access to financial market infrastructure in resolution constitute a barrier to resolvability.

**5.12 Objective:** To be considered resolvable firms should be able to take all reasonable steps available to facilitate continued access to clearing, payment, settlement, and custody services in order to keep functioning in resolution (recognising that providers of these services may retain a degree of discretion over their ability to terminate a firm's membership).

5.13 In assessing whether a firm has met this objective, the Bank will consider how firms have implemented the SoP on Continuity of Access to Financial Market Infrastructure.<sup>2</sup>

## Restructuring planning

### Policy Background

- In a bail-in, a firm's directors (or a Bail-in Administrator (BIA) appointed by the Bank) will be required to draw up and submit a business reorganisation plan within a specified period of time. This business reorganisation plan must include measures aiming to restore the long-term viability of the firm within a reasonable timescale, and a timetable for the implementation of those measures. It must meet the requirements set out in Commission Delegated Regulation (EU) 2016/1400, which specifies that a successful reorganisation strategy should follow a comprehensive analysis of the firm to be reorganised, its strengths and weaknesses, as well as the relevant markets where that firm operates and the risks and opportunities they present. The EBA has also published Guidelines on the minimum criteria to be fulfilled by a business reorganisation plan.<sup>3</sup>
- There are a number of policies and initiatives in the UK that require firms to undertake actions in business-as-usual to support authorities in the restructuring objective:
  - a) Ring-fencing. Certain UK banking groups are required to ring-fence their core activities under the Financial Services and Markets Act 2000 (FSMA) as amended by the Financial Services (Banking Reform) Act (2013). Ring-fencing mandates the structural separation of the ring-fenced bank from the non-ring-fenced bank. While the Bank envisages that the bail-in tool will be applied to a single entity within a group, and in general that entity would be the top financial holding company of the group, ring-fencing would help facilitate the reorganisation of a firm by providing resolution authorities with additional options to minimise any disruption to the continuity of core services in the United Kingdom.
  - b) Recovery planning. This is addressed in the UK by PRA SS9/17 'Recovery Planning', published in December 2017,<sup>4</sup> and the Recovery Plans Part of the PRA Rulebook. As part of their recovery planning, firms should have developed a number of recovery options, and should maintain and test their recovery plans. Governance of firms' recovery plans should be clearly defined and firms should have effective processes to identify and report the risks affecting their ability to recover. Some recovery options developed for PRA recovery planning, such as a sale of assets, may be available as restructuring options for a firm in resolution.
  - c) Operational Continuity in Resolution. This is addressed in the UK in the PRA's OCIR policy. Firms' arrangements to meet OCIR requirements should facilitate and can inform post-stabilisation

<sup>1</sup> Bank of England (2019) 'The Bank of England's statement of policy on continuity of access to FMIs' available at: <https://www.bankofengland.co.uk/-/media/boe/files/paper/2019/bank-of-england-continuity-of-access-to-fmis-sop.pdf>.

<sup>2</sup> Bank of England (2019) 'The Bank of England's statement of policy on continuity of access to FMIs' available at: <https://www.bankofengland.co.uk/-/media/boe/files/paper/2019/bank-of-england-continuity-of-access-to-fmis-sop.pdf>.

<sup>3</sup> Draft Regulatory Technical Standards and Guidelines on business reorganisation plans under Directive 2014/59/EU (BRRD). These relate to: awareness and commitment; credibility; appropriateness of the reorganisation strategy and measures; consistency; and monitoring and verification. The guidelines also cover coordination between resolution authorities and competent authorities.

<sup>4</sup> Bank of England (2017) 'Recovery planning', PRA Supervisory Statement SS9/17 available at: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2017/ss917.pdf>.

restructuring, such as objective service level agreements that help identify operational interdependencies and clear and transparent charging structures that aid decision-making in restructuring. As part of OCIR, firms are expected to structure themselves so that they can execute post-stabilisation restructuring within a reasonable time.

- d) Funding in Resolution. In July 2019, the Bank published its SoP on Funding in Resolution. This sets out the capabilities firms should have to ensure they continue to meet their obligations as they fall due in the approach to and through resolution. Capabilities developed to meet the Funding in Resolution SoP, which provide information on liquidity needs and sources of the firm, should inform firms' approach to restructuring planning.
- e) Valuation capabilities. This is addressed in the UK by the Bank's Valuation SoP and the accompanying guidance, published in November 2018.<sup>1</sup> To ensure that the valuations take proper account of all losses, firms should have data and information on post-stabilisation restructuring options to enable the financial implications of these to be assessed through the valuation process.
- In July 2019, the Bank published its SoP on restructuring planning.<sup>2</sup> This SoP sets out objectives and capabilities that certain firms are expected to meet in order to avoid a determination that insufficient restructuring capabilities constitute a barrier to resolvability.

**5.14 Objective:** To be considered resolvable firms should be able to plan and execute restructuring effectively and on a timely basis in the event of resolution, taking into account the objectives applicable to that firm's preferred resolution strategy.

5.15 In assessing whether a firm has met this objective, the Bank will consider how firms have implemented the SoP on Restructuring Planning.<sup>3</sup>

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<sup>1</sup> Bank of England (2018) 'Guidance on valuation capabilities to support resolvability': available at <https://www.bankofengland.co.uk/letter/2018/guidance-on-valuation-capabilities-to-support-resolvability>.

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

<sup>3</sup> Bank of England (2019) 'The Bank of England's statement of policy on restructuring planning': available at <https://www.bankofengland.co.uk/-/media/boe/files/paper/2019/bank-of-england-restructuring-planning-sop.pdf>.

## 6 Outcome: coordination and communication

6.1 To meet the coordination and communication outcome for resolvability, firms will need to (at a minimum) have capabilities, resources, and arrangements in place to meet relevant Bank and PRA policies relating to:

- Management, governance and communication.

### Management, governance and communication

#### Policy Background

- Effective management, governance, and communication are crucial to enable an effective resolution. Inclusion of these matters in the Bank's resolvability assessment and resolution plans is consistent with existing legal obligations.<sup>1</sup>
- In June 2018, the FSB published 'Principles on Bail-in Execution'.<sup>2</sup> This is the first set of international standards on the subject of management, governance and communication in resolution. The principles are addressed primarily to resolution authorities rather than firms, though for the Bank to implement these principles effectively it will need firms to have adequate capabilities and arrangements in place. The FSB principles have therefore informed the proposals set out below.
- Many of the policies that apply to firms in going-concern regarding management, governance and communication will also largely apply in resolution. The Bank considers that the following PRA Rules and expectations will be of particular relevance:
  - a) the PRA's Fundamental Rules, which, among other areas, require firms to organise and control their affairs responsibly;
  - b) the PRA's Senior Managers and Certification Regime (SM&CR), which provides a framework for identifying key decision-makers in a firm, allocating clear responsibilities to them, and holding them accountable;<sup>3</sup>
  - c) the PRA's Remuneration Rules, which seek to align incentives with performance and prudent risk-taking;<sup>4</sup>
  - d) the PRA's Ring-fencing Rules which require a ring-fenced body to, in carrying on its business, ensure that it is able to take decisions independently of other members of its group;<sup>5</sup>
  - e) PRA SS5/16 'Corporate governance: Board responsibilities' which sets out the PRA's expectations for boards;<sup>6</sup>
  - f) the PRA's OCIR Policy, which covers the need for continuity of governance and staff involved in the provision of critical services; and

<sup>1</sup> Part 6 of the No.2 Order.

<sup>2</sup> FSB (2018) 'Principles on Bail-In Execution' available at: <http://www.fsb.org/2018/06/principles-on-bail-in-execution-2/>.

<sup>3</sup> Bank of England (2018) 'Strengthening individual accountability in banking' PRA Supervisory Statement SS28/15 available at: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2018/ss2815update>

<sup>4</sup> [www.praRulebook.co.uk/Rulebook/Content/Part/292166/25-07-2018](http://www.praRulebook.co.uk/Rulebook/Content/Part/292166/25-07-2018).

<sup>5</sup> Certain UK banking groups are required to ring-fence their core activities under the Financial Services and Markets Act 2000 (FSMA) as amended by the Financial Services (Banking Reform) Act (2013).

<sup>6</sup> Bank of England (2018) 'Corporate governance: Board responsibilities' PRA Supervisory Statement SS5/16 available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/corporate-governance-board-responsibilities-ss>.

- f) other PRA Rules dealing with systems and controls, including business continuity, contingency planning,<sup>1</sup> and outsourcing.<sup>2</sup>
- In July 2019, the Bank published its SoP on management, governance and communication in the context of resolvability.<sup>3</sup> This SoP sets out objectives and capabilities that certain firms are expected to meet in order to avoid a determination that insufficient management, governance and communication capabilities constitute a barrier to resolvability.

6.2 **Objective:** To be considered resolvable firms should be able to – during the execution of a resolution – ensure that their key roles are suitably staffed and incentivised, that their governance arrangements provide effective oversight and timely decision making, and that they deliver timely and effective communications to staff, authorities and other external stakeholders.

6.3 In assessing whether a firm has met this objective, the Bank will consider how firms have implemented the SoP on Management, Governance and Communication.<sup>4</sup>

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1 <https://www.praRulebook.co.uk/Rulebook/Content/Chapter/214138/25-07-2018>.

2 <https://www.praRulebook.co.uk/Rulebook/Content/Part/214147/25-07-2018>.

3 Bank of England (2019) 'The Bank of England's statement of policy on management, governance and communication' available at: <https://www.bankofengland.co.uk/-/media/boe/files/paper/2019/bank-of-england-management-governance-and-communication-sop.pdf>.

4 Bank of England (2019) 'The Bank of England's statement of policy on management, governance and communication' available at: <https://www.bankofengland.co.uk/-/media/boe/files/paper/2019/bank-of-england-management-governance-and-communication-sop.pdf>.

## 7 Assurance

7.1 When conducting assurance of firms' resolvability, the Bank will consider:

- (a) the capabilities, resources, and arrangements firms have in place for satisfying relevant policies and how this achieves the resolvability outcomes;
- (b) the effectiveness of firms' plans to implement measures to observe relevant policies;
- (c) the governance, communications and assurance arrangements firms use to ensure the effectiveness of their approach or method for complying with the relevant policy and how these achieve the resolvability outcomes; and
- (d) how firms assess and oversee their ongoing performance in observing the relevant policies.

### Assurance by firms

7.2 In the first instance, firms should apply their own arrangements to ensure they have the necessary measures in place to support resolvability. In carrying out its resolvability assessments, the Bank will consider the effectiveness of these arrangements. This will include:

- **Ongoing testing and review.** The Bank will consider how the firm has tested and reviewed whether its capabilities and arrangements operate as expected. The Bank will consider whether this testing and review has involved a suitably rigorous method and an appropriate level of expertise, independence and senior management engagement. The Bank will also consider how the firm has incorporated the outcome of its testing and review into its plans to maintain and enhance its resolvability; and
- **Business-as-usual governance and oversight.** The Bank will consider how the firm has apportioned responsibilities within the firm for approving and monitoring the capabilities, resources, and arrangements necessary to support resolvability. The Bank will consider the extent to which these responsibilities sit with suitably senior individuals or committees that have the skills and capacity necessary to fulfil these responsibilities effectively. This includes whether there is an appropriate level of oversight by the firm's board and senior management in line with the responsibilities proposed in the Resolution Assessment Part of the PRA Rulebook. The Bank will also consider how firms integrate these governance and oversight arrangements into existing business-as-usual arrangements to help embed consideration of resolvability as a focus within the firm.

7.3 The Bank recognises that these arrangements should reflect the nature of each specific barrier, including whether the measures needed are discreet and measurable (i.e. contractual arrangements, MREL resources) or capability-based (eg ability to provide data and information).

### Consideration of firms' reports

7.4 Firms which are in scope of the Resolution Assessment Part of the PRA Rulebook are required to assess their preparations for resolution and provide a report of their assessments to the PRA. These reports will be shared with the Bank to support its consideration of firms' resolvability.

7.5 To support the Bank's assurance, the Bank may ask firms to explain aspects of their report in further detail, including with regards to the specific capabilities and outcomes proposed in the previous chapters. The Bank considers that such engagement will be important for ensuring that firms have achieved the resolvability outcomes and that firms' work aligns with the Bank's desired outcomes.

7.6 The Bank will continue engaging with firms between RAF cycles to ensure that firms continue to make progress on their stated future work plans.



## Evidence from firms

7.7 To gain assurance, the Bank may ask firms for evidence of their resolvability. The Bank will be proportionate in its approach to requesting evidence, in particular for those firms not in scope of the Resolution Assessment Part of the PRA Rulebook as the depth and type of capabilities required to remove barriers to resolvability will depend on the firm's size and the nature of its business model.

7.8 By way of example, the additional evidence the Bank may ask for could include:

- (a) Data or information: For a number of barriers, firms will need to maintain certain data and information, and be able to provide this upon request. The Bank may ask for this specific data and information as part of its ongoing assessments of resolvability (i.e. information on MREL issuance, close-out risks for financial contracts, and FMI membership). This could also include examples of the contractual language the firm has adopted to comply with a given policy (i.e. for stays in financial contracts, MREL instruments or service provision).
- (b) Documentation: The Bank may ask firms to provide documentation containing detailed information of their underlying capabilities and arrangements. This may include:
  - documentation regarding the firm's compliance with relevant policies (eg MREL issuance, statements of compliance, expert advice);
  - operational documentation describing how underlying capabilities would be deployed in a resolution scenario (eg processes for supporting an independent valuation, retaining key staff and communicating with key stakeholders);
  - descriptions of capabilities and arrangements themselves, such as how systems or processes operate, what methodologies have been applied for valuing assets, cost-charging, or identifying key job roles;
  - summaries of the testing carried out by the firm, including detail about the design and planning of the test, how the exercise unfolded, the team or individuals involved and the lessons learnt;
  - descriptions of the oversight and review arrangements that given capabilities and arrangements are subject to (as discussed above); and
  - documentation of the assumptions used when complying with the policies and principles set out above (eg assumptions underpinning MREL issuance plans, input assumptions for valuation models and assumptions around scenarios for projecting funding needs).
- (c) Live evidence: Certain capabilities involve processes and systems that will need to be deployed in a resolution scenario. The Bank may ask firms to demonstrate these capabilities directly to the Bank to gain assurance that they would work as intended in practice. This could include:
  - live testing of whether a firm's capabilities operate as stated in a scenario specified by the Bank (eg providing data for valuations, projecting potential liquidity needs and executing restructuring options); and
  - live demonstrations to the Bank of specific systems or processes (eg OCIR service catalogue demonstrations).

7.9 For firms within the scope of the Resolution Assessment Part of the PRA Rulebook, requests may be made for evidence to support the statements in firms' reports of their assessments or where there are gaps in those statements. In such instances the Bank will ask for evidence in a proportionate manner

and, in particular, will not as a matter of course, ask firms for evidence in relation to all parts of each barrier in each cycle of the RAF.

7.10 The Bank may ask for a particular piece of evidence on a specific capability from all firms in a given RAF cycle in order to undertake sector-wide analysis of a particular barrier.

7.11 The Bank will consider information submitted to the Bank for resolution planning purposes in accordance with Commission Implementing Regulation (EU) 2018/1624 prior to requesting additional materials. Wherever possible, the Bank will consider other information submitted to both the Bank and the PRA to inform what it will request so as to reduce information burden upon firms.

## **8 The Bank's public statements**

8.1 The Bank will make public statements concerning the resolvability of firms within the scope of the Resolution Assessment Part of the PRA Rulebook. These public statements will explain the extent to which the Bank considers that any barriers to a firm's resolvability could impede the Bank from executing the firm's preferred resolution strategy, without resort to public funds, and whilst avoiding any significant adverse effect on the financial system or the continuity of banking services and critical functions.

8.2 The Bank will not make a 'pass' or 'fail' judgement on each firm's resolvability in recognition that resolvability is a complex judgement. The Bank will assess against the resolvability outcomes.

### **Sequencing of firms' and the Bank's publications**

8.3 The Bank's public statements concerning firms' resolvability will take into account firms' own public disclosures as detailed in SS4/19. The Bank intends to publish its statements at the same time as, or as soon as possible after, the relevant firm's public disclosure. The Bank does not intend to disclose price sensitive or proprietary information in its public statement.

8.4 The Bank intends to publish all of its statements for firms in scope of the Resolution Assessment Part of the PRA Rulebook at the same time.

## **9 How the RAF fits within the existing legal framework**

9.1 The Bank has a statutory financial stability objective to 'protect and enhance the stability of the financial system of the UK'. This applies to the Bank generally including in relation to its role as the UK's resolution authority. In addition, the Banking Act 2009 sets out special resolution objectives which 'relevant authorities' (i.e. HM Treasury, the PRA, the FCA and the Bank) need to have regard to when using, or considering use of, stabilisation powers (or bank insolvency or bank administration procedure).

9.2 The Bank must prepare resolution plans for all 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. As part of resolution planning, the Bank must, in consultation with the competent authority (that is, the PRA or the FCA), assess the extent to which it would be feasible and credible to place the firm into resolution and implement the preferred resolution strategy, while avoiding to the maximum extent possible any significant adverse effect on the financial system of any EEA State or the continuity of the firm's critical functions (that is, the 'resolvability assessment').

9.3 The resolvability assessment will be conducted annually, unless the Bank determines otherwise in accordance with the Bank Recovery and Resolution (No. 2) Order 2014 (the No. 2 Order) at the same time as, and for the purposes of, drawing up or updating the resolution plan.

9.4 The Bank must not assume that the firm will be in receipt of any: extraordinary public financial support; central bank emergency liquidity assistance; or central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms. This resolvability assessment shall be based on the following consecutive stages:

- (i) assessment of the feasibility and credibility of the liquidation of the firm under normal insolvency proceedings;
- (ii) selection of a preferred resolution strategy;
- (iii) assessment of the feasibility of the selected resolution strategy; and
- (iv) assessment of the credibility of the selected resolution strategy.

9.5 The Bank will continue to complete a formal resolvability assessment and review resolution plans on an annual basis. The assessment and report in SS4/19 and the Bank's public statements concerning firms' resolvability will not replace the Bank's annual resolvability assessment. It will provide information to the Bank which the Bank will use as part of fulfilling its legal requirement to assess the resolvability of firms.

9.6 When preparing its public statement, the Bank will ensure that it is consistent with its formal resolvability assessment, which it will continue to discuss with international counterparts in the relevant fora. The Bank will also ensure that its public statement is consistent with the summary of the resolution plan and resolvability assessment that it is obliged to send to firms annually.

9.7 In order to conduct assurance of firms' resolvability the Bank will consider information submitted to the Bank for resolution planning purposes in accordance with Commission Implementing Regulation (EU) 2018/1624. Wherever possible, the Bank will consider other information submitted to both the Bank and the PRA to inform what it will request so as to reduce information burden upon firms.

9.8 SS19/13 on Resolution Planning<sup>1</sup> sets out details on information that firms should submit to the PRA to facilitate resolution planning and applies to firms to which the Resolution Pack Part of the PRA Rulebook applies.

9.9 In October 2017 the EBA consulted on changes to the Implementing Technical Standards on information for resolution planning. The Bank and PRA recognised that the ITS requirements could lead to duplicative reporting and have delayed resolution pack submissions under SS19/13 for relevant firms until 2020. In order to alleviate operational burden on firms, the delay was extended to the end of 2022.<sup>2</sup> During this period, resolution planning information can still be requested from firms under SS19/13 Phase 2 requirements and MREL reporting continues.

9.10 This SoP refers to three resolvability outcomes. In order to achieve these three outcomes, firms must address eight barriers to resolvability. Following a resolvability assessment, the Bank will inform the firm of any identified substantive impediments to resolvability. The firm will then have four months to make a proposal to remove the identified impediments. If the Bank concludes that the firm's proposal is insufficient or no proposal is received, the Bank must use its power to require the firm to take measures to address impediments to the effective exercise of the stabilisation powers or the winding up of that firm. The firm must propose a plan to achieve the measures required by the Bank, within one month, beginning on the date of the direction.

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<sup>1</sup> PRA Supervisory Statement SS19/13 available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2013/resolution-planning-ss>.

<sup>2</sup> See 'Statement by the Bank of England and Prudential Regulation Authority on resolution measures and Covid-19', 7 May 2020: <https://www.bankofengland.co.uk/news/2020/may/statement-by-the-bank-of-england-and-pra-on-resolution-measures-and-covid-19>.

9.11 Please see the Bank's SoP on its power to direct institutions to address impediments to resolvability (December 2015)<sup>1</sup> and Part 3 of the Purple Book for further details on the Bank's policy for exercising its power to direct institutions to address impediments to resolvability under Section 3A of the Banking Act 2009.

9.12 The policy set out in this SoP has been designed in the context of the current UK and EU regulatory framework. The Bank will update this SoP in future to reflect the UK's withdrawal from the EU.<sup>2</sup>

## 10 Timeframe for compliance

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

10.2 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.

10.3 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.

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<sup>1</sup> 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>.

<sup>2</sup> Please refer to the Bank's webpages on the UK's withdrawal from the [UK's withdrawal from the EU](#) for further information and details of the Bank's approach to financial services legislation under the European Union (Withdrawal) Act 2018.

# Annex 1: A Stylised Resolution Timeline

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1.1 This stylised resolution timeline provides an illustration of how the Bank anticipates a resolution may be conducted. This should help firms understand the capabilities and arrangements they will need to have in place in business-as-usual. Firms should consider each phase of the timeline when developing their capabilities to deliver the resolvability outcomes set out in the Approach to Assessing Resolvability SoP. When assessing the resolvability of firms, the Bank intends to have regard to a stylised resolution timeline reflecting how a firm may be resolved. However, the Bank recognises that each resolution scenario will be unique and will not necessarily conform to this timeline in practice.

1.2 This stylised resolution timeline is designed around the bail-in tool.<sup>1</sup> It complements the description of the Bank's approach to resolution and bail-in mechanic as described in the Purple Book.<sup>2</sup> Aspects of this timeline may also be relevant for firms whose preferred resolution strategy does not involve Bank-led bail-in.

1.3 This stylised resolution timeline consists of three phases: (i) pre-resolution contingency planning, (ii) the 'resolution weekend' and, (iii) the bail-in period. The Bank will endeavour to ensure that the duration of each of these phases is sufficient to make resolution effective. However, the duration of each phase cannot be known in advance and will depend on the circumstances of the financial failure at hand.

1.4 When implementing a resolution, the Bank must pursue the statutory special resolution objectives<sup>3</sup> and is empowered to do so without the consent of shareholders, creditors or the senior management of the firm. The Special Resolution Regime is designed to ensure that action can be taken quickly and effectively to protect financial stability. Where the bail-in tool is used, the Bank's direct involvement as resolution authority will end following the return of a sufficient majority of the equity of the resolved firm to the new shareholders or after a set period has elapsed.

1.5 This description of the resolution timeline focuses on the key actions and decisions that would need to be taken during the resolution process. It does not include every decision or action that may need to be taken. Throughout the process the Bank would expect to engage with supervisors, advisers and other relevant authorities around these actions and decisions as appropriate.

1.6 This stylised resolution timeline does not consider:

- (a) *The cause of the firm's financial failure or the prevailing macroeconomic context*. The Bank expects firms to have capabilities that are robust regardless of the nature of the original issue that has caused a financial loss. As such, the Bank would not expect firms to plan for a particular scenario or cause of financial failure.
- (b) *The deployment of recovery actions prior to resolution*. In the period prior to resolution, supervisors will engage with the firm on a more intensive basis in recovery.<sup>4</sup> In considering their resolvability,

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<sup>1</sup> This is the preferred resolution strategy for the largest and most complex UK firms and the majority of other firms to which stabilisation powers would likely be applied.

<sup>2</sup> The stylised resolution timelines set out in Annex 1 and Annex 2 of the Approach to Assessing Resolvability SoP is structured around the bail-in mechanic described in Annex 2 of the Purple Book, rather than the broader resolution phases covered in Part 2 of that document. These phases are the 'stabilisation phase', the 'restructuring phase' and 'exit from resolution and implementation of restructuring'. In a bail-in, the 'stabilisation phase' covers the 'resolution weekend' and the first part of the bail-in period. The 'restructuring phase' would likely start during the bail-in period, once the firm is stabilised. 'Exit from resolution' would occur at the end of the bail-in period. 'Implementation of restructuring' would likely continue after the end of bail-in period (i.e. after 'exit from resolution').

<sup>3</sup> Section 4 Banking Act.

<sup>4</sup> Bank of England (2018) 'The Prudential Regulation Authority's approach to supervision': <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/pru-approach-documents-2018>.

firms should demonstrate an awareness of the interactions between recovery and resolution.<sup>1</sup> While there are some overlaps between the phases described here and the recovery process, firms should not work on the basis that they have taken any specific recovery action prior to resolution.

### Pre-resolution contingency planning

1.7 The first phase covers the pre-resolution contingency planning period. Pre-resolution contingency planning complements actions taken by firms to implement their recovery plans and heightened supervision undertaken by supervisors. The Bank would expect to intensify its contingency planning for a resolution when the firm appears to be coming under increasing stress, as informed by the firm's position in the PRA's Proactive Intervention Framework.<sup>2</sup>

1.8 In a period of heightened stress, the MREL position of a firm is likely to deteriorate. As stated in PRA SS16/16,<sup>3</sup> the PRA expects firms not to double count common equity Tier 1 capital (CET1) towards both MREL and the amount reflecting the risk-weighted capital and leverage buffers. In addition, a firm breaching, or likely breaching, its external or internal MREL should also expect the PRA to investigate whether the firm is also failing, or likely to fail, to satisfy the Threshold Conditions.<sup>4</sup>

1.9 The Bank aims for contingency planning for resolution to be possible over the course of three months. The Bank will endeavour to ensure that sufficient time is available. In practice, however, the amount of time available for contingency planning will vary — for example, depending on the nature of the difficulties being experienced and the actions to recover being taken by the firm.<sup>5</sup>

1.10 In this phase, one would usually expect there to be heightened, intensive engagement between the firm, regulatory authorities (the Bank, PRA and Financial Conduct Authority (FCA), as well as with authorities in other relevant jurisdictions), and the Bank's advisers (including an independent valuer).

1.11 For resolution to achieve its objectives, the Bank (and other relevant authorities) will need to make effective decisions around the application of stabilisation powers. This includes assessing:

- (a) Whether the preferred resolution strategy is feasible. To review the feasibility of the preferred resolution strategy, the Bank will need more assurance around the firm's resolvability. This includes assessing the eight barriers to resolvability. The Bank will also need to consider any other potential issues or challenges that may complicate the resolution.
- (b) Whether there is a reasonable prospect that long-term viability will be restored through the resolution and restructuring. For the Bank to use the bail-in tool it will need to consider there to be a reasonable prospect that bail-in, together with other measures, including any business reorganisation measures, will restore the firm to financial soundness and long-term viability.
- (c) What instruments and liabilities are potentially in scope of bail-in. The Bank will need to confirm what instruments and liabilities are available to bail-in. It will also need valuation analysis to inform what the recapitalisation needs are for the firm's material subsidiaries, and the group as a whole.
- (d) Whether the conditions for a firm being placed into resolution are met. Four statutory conditions must be met before a firm can be placed into resolution. These include the determination that the

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<sup>1</sup> See Bank of England (2017) 'Recovery planning', PRA Supervisory Statement SS9/17 available at: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2017/ss917.pdf>.

<sup>2</sup> For more information on the Proactive Intervention Framework, Bank of England (2018) 'The Prudential Regulation Authority's approach to supervision': <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/pru-approach-documents-2018>.

<sup>3</sup> Update on 16 July 2019 <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/the-minimum-requirement-for-own-funds-and-eligible-liabilities-mrel-ss>.

<sup>4</sup> However, a breach or likely breach by a firm of its MREL does not automatically mean that the PRA will consider the firm is failing, or likely to fail, to satisfy Threshold Conditions.

<sup>5</sup> See paragraph 3.31 of the Purple Book.

firm is deemed 'failing or likely to fail', and that it is not reasonably likely that action will be taken outside resolution that will result in the firm no longer failing or being likely to fail.<sup>1</sup>

1.12 To support these decisions, and to ensure the effectiveness of the resolution more generally, a number of actions will need to be undertaken. Annex 2 provides an illustration of some key actions that firms may be required to take during this stylised resolution timeline. In practice, there will be further actions needed beyond those listed.

### The 'resolution weekend'

1.13 The second phase begins at the point that the authorities determine that the firm has met the conditions for resolution and that the relevant resolution entity will be placed into resolution. The phase ends the next business day when relevant markets open. Ideally the Bank would want to ensure that this phase takes place over a weekend, with the resolution decision taking place on a Friday once relevant financial markets have closed. It is possible that resolution may need to take place mid-week.

1.14 Once the Bank has decided to place a firm into resolution,<sup>2</sup> it will make a resolution instrument. This will give effect to the resolution, and specify the instruments and liabilities subject to the bail-in. It will be accompanied by a public announcement by the Bank. The Bank will coordinate with the relevant listing authorities (including the FCA) to suspend the trading, or cancel the listing of relevant instruments subject to the bail-in. Settlement will be frozen within the relevant central securities depositories (CSDs).

1.15 In addition, the resolution instrument may:

- appoint a Bail-in Administrator (BIA) to control the voting rights of all shares in the firm during the bail-in period. The resolution instrument would also provide the BIA with additional powers, and impose objectives, constraints, and reporting arrangements, as the Bank saw fit;
- require the firm to issue Certificates of Entitlement (CEs) representing the potential right of bailed-in creditors to a future claim in the resolved firm.<sup>3</sup> CEs would be credited into the accounts of bailed-in creditors, the process for which would commence at the 'resolution weekend';
- transfer the legal title of existing shares to a third-party depository bank appointed by the Bank. These shares would be held on trust on behalf of the CE holders who will be the future owners of the firm;
- remove or replace directors and senior managers of the firm or vary their service contracts;
- require the BIA or the firm's directors to submit a business reorganisation plan to the Bank within a specified time period;<sup>4</sup> and/or
- apply any other relevant powers under the Banking Act 2009 (and associated legislation), if the Bank considered this necessary to achieving its resolution objectives.<sup>5</sup>

1.16 During this phase, the firm will need to communicate essential information about the Bank's resolution action to its key stakeholders, including counterparties, investors, customers and suppliers.

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<sup>1</sup> The general conditions for the use of stabilisation powers are set out in Section 7 of the Banking Act. Further detail on the conditions assessment process is set out in the Purple Book.

<sup>2</sup> This decision would be made in consultation with the PRA, FCA and HM Treasury.

<sup>3</sup> CEs would also carry the rights of bailed-in creditors to potential compensation under the NCWO safeguard.

<sup>4</sup> Under Article 52 of the Bank Recovery and Resolution Directive (2014/59/EU) (BRRD), the plan should need to be provided within one month of the Bank applying the bail-in tool. In exceptional circumstances, this may be extended up to a maximum of two months.

<sup>5</sup> This could include, but is not limited to: amending the contractual terms of securities issued by the firm, discontinuing or suspending the listing of securities issued by the firm, requiring one or more of the firm's directors to comply with directions, and requiring continuity of relevant processes after the resolution date.

The firm and the Bank will work together to reassure these stakeholders and retain their confidence, helping to ensure that the firm can continue operating post-resolution. It will be crucial that, as the 'resolution weekend' ends, the firm will be able to continue performing the banking services and critical functions it normally provides to its customers and the wider financial market.

1.17 In particular, it will be important that counterparties under financial contracts that are within scope of either the Banking Act stay or the PRA Stay Rules respect a stay under the UK resolution regime. The firm may therefore need to communicate with counterparties regarding the general and any temporary stay. In doing so, the firm may need to explain that the consequence of resolution is that the operating company will be stabilised and continue to operate. Communication should be clear that the resolution action is taken at the level of the resolution entity.

1.18 Firms may also need to support the mechanics of the bail-in transaction. In doing so, firms will need to consider the implications of the relevant securities law or listing rules that may apply, and seek to ensure that these requirements do not frustrate the bail-in transaction.

### **Bail-in period**

1.19 The third phase covers the period between the 'resolution weekend' and when the firm returns to private control. The Bank aims for this period to last no more than three to six months. In practice, however, this period would last as long as necessary until the Bank could accurately calibrate the final terms of the bail-in and safely return the firm to private control.

1.20 Throughout this phase, the firm will be expected to continue providing most or all of its banking services and critical functions. This will be supported by preparatory work before resolution, though ongoing actions may be needed to stabilise the firm and achieve the resolvability outcomes.

1.21 During the bail-in period, the BIA, if appointed, would work with the firm's management to further develop and submit a credible business reorganisation plan. This plan may involve some parts of the business being wound down or sold as well as a possible restructuring of the remaining business. Work undertaken in the contingency planning period and the firm's recovery plan, as well as the specific circumstances of the firm's failure, will all be used to form the basis of this plan.

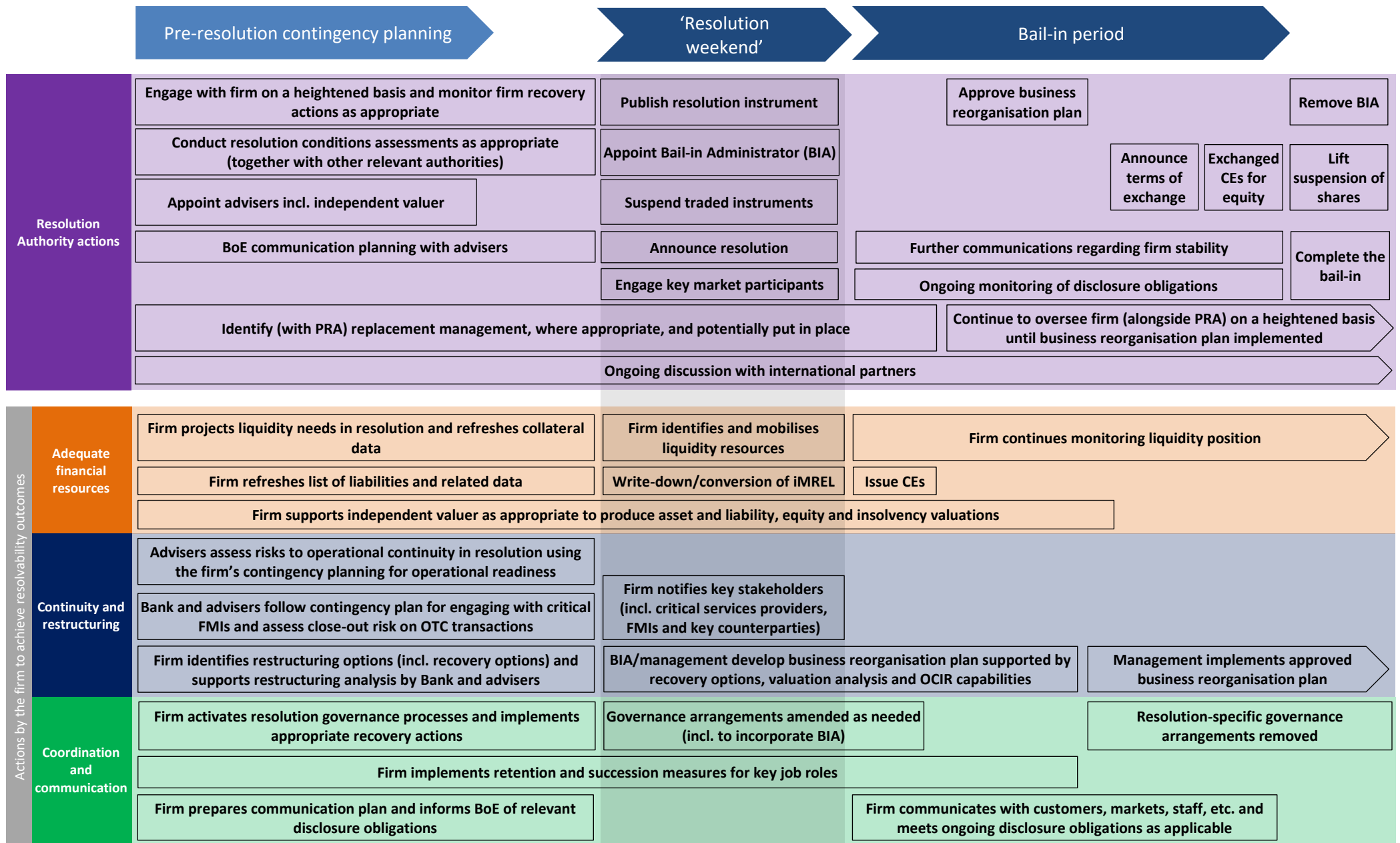
1.22 This plan will need to be approved by the Bank, in consultation with the PRA and/or the FCA, who will need to be satisfied that the plan is credible (i.e. the arrangements in the plan would, if implemented, have a reasonable prospect of returning the firm to long-term viability). Further consideration may need to be given to the specific steps needed to implement the plan after the plan has been approved.

1.23 Further valuation work (supported by the independent valuer) will also be needed to inform and reflect the business reorganisation plan. Once final valuations have been completed, the Bank will announce the terms of the exchange for each class of CEs. CE holders will be asked to come forward and identify their beneficial ownership.

1.24 Exit from resolution will take place once an adequate proportion of CE holders have come forward or after a set period of time has elapsed. The depository bank will transfer shares to the relevant accounts of CE holders, and the BIA will no longer control the associated voting rights. The suspension of trading of the firm's shares would subsequently be lifted, and the BIA would be removed.

1.25 The firm will be expected to commence implementing its business reorganisation plan as soon as possible once the firm has been stabilised and the plan agreed. Implementation of the plan is likely to start during the bail-in period and extend beyond the point at which the firm has exited from resolution. However, the timing of the restructuring will reflect the specific case at hand. Where restructuring does continue post resolution, this will be completed by the new management and board under the supervision of the PRA and/or FCA.





## Annex 2: Actions during this Stylised Resolution Timeline

Firms should consider all the actions they may have to take during this stylised resolution timeline when developing their capabilities to meet the resolvability outcomes set out in the Approach to Assessing Resolvability SoP.

The tables below provides an illustration of some key actions firms may be required to take during the periods within this stylised resolution timeline, as well as context as to why these actions may be needed. It is intended to be illustrative only, and should not be considered to be exhaustive. The Bank recognises that each resolution scenario will be unique and, in practice, the actions may not necessarily conform to those listed below. The length of each section below is not an indication of the importance of removing particular barriers to resolvability.

The tables groups the actions that may be required of firms into two parts: those that maybe required during the pre-resolution contingency planning period and those that may be required during the 'resolution weekend' and the bail-in period. This is because much of what may be required of firms after they have entered into resolution will be necessary on an ongoing basis rather than at a specific point on the 'resolution weekend'.

### Key actions that may be required from firms during pre-resolution contingency planning

Barrier	Context	Actions required from the firm
<b>Outcome: Financial resources</b>		
MREL	The Bank will need to confirm what liabilities are available to bail-in.	The firm may need to provide the Bank and the PRA with additional, or more up-to-date, information, possibly at a short notice.
Valuations	The Bank will require valuations to inform its decisions. These valuations will likely be subject to significant uncertainty and may need to take into account rapidly evolving information on the resolution, the restructuring actions envisaged, and the condition of the firm and the market more broadly.	The firm will need provide timely access to relevant data and information, model outputs, documentation and relevant personnel needed to support these valuations and associated sensitivity analysis. This process is likely to be highly iterative.
Funding in Resolution	In a period of stress, the liquidity position of a firm is likely to deteriorate. The Bank and the PRA may require additional, or more up-to-date, information on liquidity, possibly at short notice, in order to facilitate their contingency planning.	The firm will need to manage its available liquidity to meet its obligations as they fall due in resolution.
<b>Outcome: Continuity and Restructuring</b>		
Continuity of financial contracts	The Bank will need a clear understanding of the firm's exposure to financial market counterparties and the risk of early termination of financial contracts. This will be used to assess the risks of implementing	The firm may need to communicate <ul style="list-style-type: none"> <li>with financial market counterparties</li> <li>with the Bank about its financial market counterparties</li> </ul>

	the preferred resolution strategy.	
Operational continuity in Resolution	Planning will be needed to ensure there will be minimal change to a firm's operations throughout this stylised resolution timeline and risks to continuity are identified and managed, to ensure uninterrupted continuity of banking services and critical functions	The firm will need to ensure its operational readiness prior to the 'resolution weekend'. This includes providing: detailed, robust, and readily available information on operational arrangements, including staff required to ensure continuity; a plan for the firm's communications, and an overview of key risks to operational continuity and potential mitigating actions.
Continuity of access to FMIs	Throughout this stylised resolution timeline many actions could be impeded should access to critical FMIs not be maintained. In a resolution scenario, FMI operators would likely enhance their monitoring of whether a firm meets its membership criteria and may impose additional requirements on the firm under its membership rules.	The firm will need to understand the specific requirements that FMIs may place upon them ahead of, and during, resolution. The firm will need to understand what communication, reporting or additional collateral or liquidity may be required by different FMIs at different points in the resolution timeline. The firm may also need to provide information to the Bank so that the relevant FMI supervisors can be contacted if necessary.
Restructuring Planning	The Bank will need an initial evaluation of what restructuring the firm could undergo should it enter resolution. First, to assess whether a bail-in resolution strategy is viable. Second, to inform the assessment of recapitalisation needs of the firm and its material subsidiaries. This will in turn inform the extent of resolution action needed, as well as the use of internal MREL resources.	The firm would need to support this initial evaluation by providing relevant information and analysis on a timely basis. This could include analysis of the firm's recovery options, mapping and documentation of service provision in the firm and – where relevant – the firm's plans to carry out a solvent wind down of its trading activities. It could also include information and analysis to support the valuations carried out by an independent valuer.
<b>Outcome: Co-ordination and communication</b>		
Management	Should the firm enter resolution, it will be important to ensure that adequate management would be in place to run the firm's ongoing business as needed and carry out actions specific to resolution and restructuring. However, some key staff may leave or be replaced in the lead-up to or during resolution.	The firm will need to identify its expected key job roles and consider the succession, retention and incentives measures that may be needed to ensure these roles are adequately staffed and incentivised in resolution. This could include working with the Bank and PRA to prepare potential replacement management.
Governance	Effective contingency planning for resolution will require significant interaction with, and involvement by, the firm in question. The firm will need to carry out a number of actions on a timely basis.	The firm will need to ensure that clear and effective governance arrangements are in place to co-ordinate the actions that the firm will need to take, such as by: <ul style="list-style-type: none"> <li>• mobilising necessary resources.</li> </ul>

	During pre-resolution contingency planning the Bank will identify a BIA, and define what specific roles, powers and responsibilities they will take on should the firm enter resolution.	<ul style="list-style-type: none"> <li>expediting decision making.</li> <li>providing oversight and engaging with relevant internal and external stakeholders.</li> </ul> <p>The firm may also need to support a potential BIA in preparing for their role.</p>
Communication	Effective communications will be crucial to promoting confidence and reducing uncertainty during resolution and any restructuring.	The firm will need to develop a detailed plan for how they will communicate with their internal and external stakeholders.

### Key actions that may be required from firms during the 'resolution weekend' and the bail-in period

Barrier	Context	Actions required from the firm
<b>Outcome: Adequate financial resources</b>		
MREL	The Bank will make a resolution instrument, specifying the liabilities, including MREL resources, subject to bail-in. The Bank, informed by valuations of the firm, will indicate the terms on which CEs may be exchanged for securities in the resolved firm.	A firm that has entered resolution will rebuild its MREL resources over time. The Bank expects to reduce the MREL applicable to a firm that has been resolved as necessary, so that it would not be in breach of MREL immediately after resolution.
Valuations	The independent valuer would update and finalise their valuations, including to inform and reflect the firm's business reorganisation plan. These valuations: <ul style="list-style-type: none"> <li>inform the assessment of restructuring options and the resources required to deliver the firm's reorganisation plan;</li> <li>enable the Bank to assess resources needed to deliver restructuring; and</li> <li>inform the exchange ratios the Bank will set to distribute the firm's equity to CE holders.</li> </ul>	Firms will need to continue to support the valuer in carrying out the necessary analysis. This could involve providing: <ul style="list-style-type: none"> <li>detailed business forecasts;</li> <li>valuations of disposal options;</li> <li>other relevant information and analysis requested by the valuer.</li> </ul> <p>This is likely to be a highly iterative process.</p>
Funding in Resolution	The Bank will monitor the firm's liquidity throughout the 'resolution weekend' and then on an ongoing basis, given the importance of stabilising outflows and restoring market confidence in the firm.	The firm will need to continue to monitor, anticipate, and adjust their assessment of liquidity risk. They should specifically consider resolution liquidity needs including with regard to stressed conditions and their evolving liquidity position.
<b>Outcome: Continuity and Restructuring Planning</b>		
Continuity of financial contracts	It will be critical that, following the 'resolution weekend', counterparties under financial contracts that are within scope of either the Banking Act stay or the PRA Stay Rules respect a stay under the UK resolution regime.	The firm may need to communicate with counterparties regarding the general and any temporary stay.

Operational continuity in resolution	Uninterrupted operational continuity of banking services and critical functions will be essential throughout the 'resolution weekend' and then on an ongoing basis.	The firm will need to ensure continuity of banking services and critical functions as planned, including uninterrupted service provision from both internal and external parties. Communications with key stakeholders and suppliers will be important in delivering this. Accessing pre-positioned liquid resources may be needed for the payment of services. The firm will also need to provide information on a timely basis to support the development of the business reorganisation plan.
Continuity of access to FMIs	Uninterrupted continuity of access to critical FMI services will be essential throughout the 'resolution weekend' and then on an ongoing basis.	The firm may need to provide information on their FMI relationships to inform the development and execution of the firm's business reorganisation plan.
Restructuring Planning	The Bank would need to be content that the firm has a credible restructuring plan in place before it is able to return the firm to private sector control. The Bank will initially require the delivery of a business reorganisation plan within one month, but may require further planning and analysis beyond this point to ensure the plan is sufficiently credible.	Initially, the firm would need to draw up and submit this business reorganisation plan (or support a BIA in doing so). Following this, the firm would need to continue providing information and analysis to support the assessment of the business reorganisation plan and any further planning needed to support its implementation.
<b><i>Outcome: Co-ordination and communication</i></b>		
Management	Entry into resolution may prompt departures or entail the removal of certain individuals deemed culpable or accountable for the firm's failure. However, it will also be important that the management of the organisation is suitable before the firm is returned to private control (which may itself entail further changes to management).	Following entry into resolution, the firm itself may need to take steps to ensure that the firm's boards, Senior Management Functions (SMFs) and other key job roles are adequately staffed and incentivised, <sup>1</sup> reflecting the operational objectives of the resolution.
Governance	Once a firm is placed into resolution, the Bank and any BIA it appoints will have a bespoke role in the management of the firm, decision making, and communications. Certain key decisions will likely be reserved for the BIA and/or the Bank. Where deficiencies in governance arrangements contributed to the	The firm may need to rapidly amend its governance arrangements to ensure they are effective in resolution. This could involve addressing any governance failures, incorporating a BIA into governance structures, or expediting decision making and conflict resolution to reflect the situation at hand.

<sup>1</sup> The Bank has the power to vary or terminate the service contract of a director or senior manager under section 48N(1) of the Banking Act. The Bank may delegate this power to a BIA. Note that the PRA's 'early intervention powers' also enable it to (among other things) require members of senior management to be removed.

	firm's failure, these would also need to be addressed before the firm is returned to private-sector control.	
Communication	There are a large number of stakeholders, both internal and external that may be impacted (or fear being impacted) by the resolution. To promote confidence, it will be important that communications are delivered on a timely basis, using effective communications channels, and containing relevant and consistent content.	The firm will need to communicate essential information about the Bank's resolution action to its key stakeholders, including counterparties, investors, customers and suppliers. The firm will also need to continue meeting its disclosure obligations (potentially seeking waivers where available).