

Bank of England

Appendix C: Bank's Draft DSS Rules summary table

April 2024

Articles not in Bank rules

The purpose of this table is to provide the reader with a summary of those articles that have either remained in the DSS CSDR, modified only by the definition changes to Article 2; remained in the DSS CSDR, as modified by the Schedule to the DSS Regulations; have not been onshored into the UK CSDR at the time of EU Withdrawal, and those that have instead been disapplied in the SI and not replaced by Bank rules altogether.

| Articles not included in the Bank rules |
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| Article 1 remains in the DSS CSDR. |
| Articles 2–3 remain in the DSS CSDR, as modified by the Schedule to the DSS Regulations. |
| Articles 4–5 remain in the DSS CSDR. |
| Articles 6–8 not onshored into UK CSDR. |
| Article 9 disapplied in the SI and not replaced by rules [refers to when an institution carries out the function of a settlement internaliser, which will not be applicable for the DSS]. |
| Article 10 remains in DSS CSDR, as modified by the Schedule to the DSS Regulations. |
| Articles 11 and 12 not onshored into UK CSDR. |
| Article 13 remains in the DSS CSDR. |
| Articles 14 and 15 not onshored into UK CSDR. |
| Article 16 [authorisation of a CSD] disapplied in SI and not replaced by Bank rules. |
| Article 17 [procedure for granting authorisation] disapplied in SI and not replaced by Bank rules. |
| Article 18 [effects of authorisation] disapplied in SI and not replaced by Bank rules. |
| Articles 20–22 disapplied in the SI and not replaced by rules. |
| Articles 23–24 not onshored into UK CSDR. |

Articles 25 disapplied in the SI and not replaced by rules.

Article 27(7) remains in the DSS CSDR.

Articles 27(8) remains in the DSS CSDR, as modified by the Schedule to the DSS Regulations.

Article 27(9) added in the DSS CSDR.

Article 31 not onshored into UK CSDR.

Article 50 disapplied in the SI and not replaced by rules.

Article 52 disapplied in the SI and not replaced by rules.

Articles 55–56 disapplied in the SI and not replaced by rules.

Article 58 disapplied in the SI and not replaced by rules.

Article 61 not onshored into UK CSDR.

Article 62 disapplied in the SI and not replaced by rules.

Article 63 not onshored into UK CSDR.

Article 64–66 disapplied in the SI and not replaced by rules.

Articles 67 remains in the DSS CSDR.

Article 68 not onshored into UK CSDR.

Articles 69 remains in the DSS CSDR.

Articles 70–72 not onshored into UK CSDR.

Article 73 remains in the DSS CSDR, as modified by the Schedule to the DSS Regulations.

Articles 74–75 not onshored into UK CSDR.

Articles 76 remains in the DSS CSDR.

Changes made at Gate 2 versus end-state requirements

The purpose of this table is to provide the reader with a summary of any changes made to Bank rules at Gate 2 (versus end-state requirements). In certain instances, we have:

- Maintained the same requirements at Gate 2 that we would expect of firms at end-state (ie, 'Applies as it stands').
- Disapplied end-state requirements at Gate 2 and replaced them with more proportionate requirements (ie, 'Disapplied and replaced').
- Disapplied certain requirements without replacing them in any form at Gate 2 (ie, 'Disapplied and not replaced') – these are areas where we did not see the need for such requirements to be in place at Gate 2 in any form.

We have also introduced a new rule on SAN breaches at Gate 2. Please refer to the relevant section of the consultation paper for additional details on our approach to creating Gate 2 rules.

| End-state rules (same numbers as CSDR articles) | Gate 2 Requirements: what is in place |
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| [no end-state rule on SAN breaches] | <p>New rule on SAN breaches.</p> <ul style="list-style-type: none"> • Introduced to monitor, adhere to and report breaches to the Bank. |
| Article 19. Extension and outsourcing of activities and services | |
| 19(1) | Applies as it stands. |
| 19(2) | Not a requirement on the firm. |
| 19(3) | Applies as it stands. |
| 19(4) | Not a requirement on the firm. |
| 19(5) | Applies as it stands. |
| 19(6) | Applies as it stands. |
| 19(7) | Not a requirement on the firm. |
| 19(8) | Applies as it stands. |

| Article 26. General provisions | |
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| 26(1) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to remove requirement to have remuneration policies in place at Gate 2. |
| 26(2) | Applies as it stands. |
| 26(3) | Applies as it stands. |
| 26(4) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement to make governance arrangements and rules governing activities available to the public. |
| 26(5) | Applies as it stands. |
| 26(6) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement to be subject to regular and independent audits. |
| 26(7) | Applies as it stands. |
| Article 27. Senior management, management body and shareholders | |
| 27(1) | Applies as it stands. |
| 27(2) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement to ensure minimum representation of independent members on the management body. |
| 27(3) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement around remuneration of independent and other non-executive members of the management body. |
| 27(4) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement on composition of the management body. |
| 27(5) | Applies as it stands. |
| 27(6) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed suitability requirement for shareholders and persons who are in a position to control the DSD. |

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| Article 28. User committee | |
| 28(1)–(6) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed the requirement to establish a user committee. |
| Article 29. Record keeping | |
| 29(1) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to reduce the requirement to maintain records of activities and services from 10 to 5 years. |
| 29(2) | <p>Applies as it stands.</p> |
| Article 30. Outsourcing | |
| 30(1) | <p>Applies as it stands.</p> |
| 30(2) | <p>Applies as it stands.</p> |
| 30(3) | <p>Applies as it stands.</p> |
| Article 32. General provisions | |
| 32(1) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to ensure firms have clearly defined goals and objectives that are achievable but removed references to minimum service levels and risk management expectations. |
| 32(2) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement for firms to have transparent rules for handling complaints. |
| Article 33. Requirements for participation | |
| 33(1) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to remove requirement to make criteria for participation public. |
| 33(2) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement to treat requests for access promptly and to make procedures for treating access requests publicly available. |
| 33(3) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement around how firm deny access to participants. |

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| 33(4) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement for firms to have objective and transparent procedures for suspension and orderly exit of participants that no longer meet criteria for participation. |
| 33(5) | Not requirements on the firm. |
| 33(6) | Not requirements on the firm. |
| Article 34. Transparency | |
| 34(1)–(8) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed transparency requirements around public disclosure of prices and fees associated with core services. Also removed requirements to maintain analytical accounting for activities. |
| Article 35. Communications procedures with participants and other market infrastructures | |
| 35(1) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirements for firms to use international open communication procedures and standards for messaging when engaging with participants as these may not yet be in place for new technology. |
| Article 36. General provisions | |
| 36(1) | Applies as it stands. |
| Article 37. Integrity of the issue | |
| 37(1) | Applies as it stands. |
| 37(2) | Applies as it stands. |
| 37(3) | Applies as it stands. |
| Article 38. Protection of securities of participants and those of their clients | |
| 38(1) | Applies as it stands. |
| 38(2) | Applies as it stands. |
| 38(3) | Applies as it stands. |

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| 38(4) | Applies as it stands. |
| 38(5) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement around ensuring that participants offer their clients choice between omnibus client segregation and individual client segregation, and to inform them of costs and risks associated with each option. |
| 38(6) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement for firms and participants to publicly disclose levels of protection and costs associated with different levels of segregation they provide, and to offer those on reasonable commercial terms. |
| 38(7) | Applies as it stands. |
| Article 39. Settlement finality | |
| 39(1) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to maintain the requirement to offer adequate protection to participants but removed requirement for firms to obtain Settlement Finality Regulation (SFR) designation. |
| 39(2) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to maintain the requirement to define moments of entry and of irrevocability of transfer orders in the securities settlement system but removed the link to the SFR. |
| 39(3) | Applies as it stands. |
| 39(4) | Applies as it stands. |
| 39(5) | Applies as it stands. |
| 39(6) | Applies as it stands. |
| 39(7) | Applies as it stands. |

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| Article 40. Cash settlement | |
| 40(1) | Applies as it stands. |
| 40(2) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Minor change to clarify that the Bank will allow for the use of commercial bank money with little or no credit or liquidity risk, or equivalent private forms of money, to be used as a payment asset within the DSS. |
| 40(3) | Applies as it stands. |
| Article 41. Participant default rules and procedures | |
| 41(1) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to maintain requirement for firms to have effective and clearly defined rules and procedures to manage default of its participants but removed need to ensure they take timely action to contain losses and liquidity pressures. |
| 41(2) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement to make default rules and relevant procedures available to the public. |
| 41(3) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement to undertake periodic testing and review of default procedures with its participants and other relevant stakeholders. |
| Article 42. General requirements | |
| 42(1) | Applies as it stands. |
| Article 43. Legal risks | |
| 43(1) | Applies as it stands. |
| 43(2) | Applies as it stands. |
| 43(3) | Applies as it stands. |

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| Article 44. General business risk | |
| 44(1) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to maintain requirement for firms to have appropriate management and control/ IT systems, to identify, monitor and manage general business risks but removed references to specific risks. |
| Article 45. Operational risks | |
| 45(1) | Applies as it stands. |
| 45(2) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to ensure firms maintain sufficiently robust IT and cyber-resilience frameworks and incident reporting mechanisms to the Bank, but removed references to how IT tools shall deal with complexity, variety and type of services and activities performed. |
| 45(3) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to make requirements around firms' business continuity and disaster recovery plans more high-level and to ensure they accommodate the use of developing technology. |
| 45(4) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to maintain requirement for firms to ensure that business continuity and disaster recovery plans provide for recovery of all transactions and participants' positions at the time of disruption but removed obligation to set up a second processing site. |
| 45(5) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement to plan and carry out programme of tests of the business continuity and disaster recovery plan arrangements. |
| 45(6) | Applies as it stands. |
| Article 46. Investment policy | |
| 46(1) | Applies as it stands. |
| 46(2) | Applies as it stands. |
| 46(3) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to restrict the scope of this requirement to ensure that firms have to invest their financial resources only in cash or in highly liquid financial instruments in respect of their DSD activities. |
| 46(4) | Applies as it stands. |

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| 46(5) | Applies as it stands. |
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| Article 47. Capital requirements | |
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| 47(1) | <p>Disapplied and replaced.</p> <ul style="list-style-type: none"> Replaced to maintain requirement for firms to maintain sufficient capital, retained earnings and reserves to cover going concern risks and the cost of wind down over at least six months but give firms scope to use their own methodology to calculate this minimum capital requirement (instead of using the relevant Regulatory Technical Standards). Firms can also choose to hold nine months of operating expenses as a minimum. |
| 47(2) | Applies as it stands. |
| 47(3) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement for firms to comply with RTS relating to A47. |
| Article 48. CSD links | |
| 48(1) | Applies as it stands. |
| 48(2) | Applies as it stands. |
| 48(3) | Applies as it stands. |
| 48(4) | Applies as it stands. |
| 48(5) | Applies as it stands. |
| 48(6) | Applies as it stands. |
| 48(7) | Applies as it stands. |
| 48(8) | Applies as it stands. |
| 48(9) | Applies as it stands. |
| 48(10) | Not a requirement on the firm. |
| 48(11) | Applies as it stands. |

| Article 49. Request to issue in a DSD | |
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| 49(1B) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement around ensuring that the corporate or similar law of country where securities are constituted continue to apply where an issuer arranges to record its securities admitted to trading on regulated markets or MTFs or traded on trading venues. |
| 49(1C) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed provision around fees that DSDs may charge. |
| 49(2) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement for firms to respond to requests from issuers willing to record their securities on their systems within three months. |
| 49(3) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed provision around DSDs refusing to provide services to an issuer. |
| 49(4) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement for firms to provide any requesting issuers with full written reasons for refusal. |
| Article 51. Customised link access | |
| 51(2) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed provisions around DSDs charging fees to the linked party for making customised link access available. |
| Article 53. Access between a DSD and another market infrastructure | |
| 53(1) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement for firms to provide transaction feeds. |
| 53(2) | <p>Disapplied and not replaced.</p> <p>Removed requirement around how firms treat requests for access.</p> |
| 53(3) | <p>Disapplied and not replaced.</p> <p>Removed requirements around how firms refuse access.</p> |

| Article 54. Conditions for providing banking-type ancillary services | |
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| 54(1) | Applies as it stands. |
| 54(2) | Applies as it stands. |
| 54(3) | Applies as it stands. |
| 54(3)(c) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement to separate regular banking activities from DSD banking activities. Our intension is to allow a bank to operate a DSD without requiring a separate legal entity to be created at Gate 2. |
| 54(4) | Applies as it stands. |
| 54(4)(d) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement for firms undertaking banking activities to only be able to provide banking-type services to DSDs and not to carry out any other activities. This is a consequential amendment on top of the amendment to 54(3)(c) in order to allow a bank to operate a DSD without requiring a separate legal entity to be created at Gate 2. |
| 54(5) | Applies as it stands. |
| Article 57. Withdrawal of authorisation | |
| 57(1) | Applies as it stands. |
| Article 59. Prudential requirements applicable in respect of credit institutions or DSDs regarding banking-type ancillary services | |
| 59(1) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed requirement on firms to ensure that the credit institutions they are engaged with only provide banking-type ancillary services that directly relate to core or ancillary services. This is a consequential amendment on top of the amendment to 54(3)(c) in order to allow a bank to operate a DSD without requiring a separate legal entity to be created at Gate 2. |
| 59(2) | <p>Disapplied and not replaced.</p> <ul style="list-style-type: none"> Removed on the grounds of redundancy. |
| 59(3) | Applies as it stands. |
| 59(4) | Applies as it stands. |

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| Article 60. Information regarding banking-type ancillary services | |
| 60(1) | Applies as it stands. |