



UNITED KINGDOM

FINANCIAL SECTOR ASSESSMENT PROGRAM

SELECT ISSUES IN FINANCIAL SAFETY NET ARRANGEMENTS AND FINANCIAL CRISIS PREPAREDNESS

April 2022

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March 18, 2022

TECHNICAL NOTE

SELECT ISSUES IN FINANCIAL SAFETY NET
ARRANGEMENTS AND FINANCIAL CRISIS PREPAREDNESS

Prepared by
**Monetary and Capital Markets
 Department**

This Note was prepared by IMF staff in the context of an IMF Financial Sector Assessment Program (FSAP) in the United Kingdom. The FSAP was led by Mr. Udaibir Das. The note contains technical analysis and detailed information underpinning the FSAP's findings and recommendations. Further information on the FSAP can be found at <http://www.imf.org/external/np/fsap/fssa.aspx>

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Glossary

AMC	Asset Management Company
ARF	Authorities' Response Framework
BAU	Business-as-Usual
BOE	Bank of England
CARG	Cross-Authority Resolution Group
CCP	Central Counterparty
CMG	Crisis Management Group
CP	Core Principles for Effective Deposit Insurance Systems
CSE	Crisis Simulation Exercise
DIF	Deposit Insurance Fund
EC	Essential Criteria
EU	European Union
FCA	Financial Conduct Authority
FSAP	Financial Sector Assessment Program
FSB	Financial Stability Board
FSCS	Financial Services Compensation Scheme
GSIB	Global Systemically Important Bank
HCF	Heightened Contingency Framework
HMT	Her Majesty's Treasury
IEO	Independent Evaluation Office (BOE)
KA	Key Attributes of Effective Resolution Regimes for Financial Institutions
LAC	Loss-Absorbing Capacity
MOU	Memorandum of Understanding
MREL	Minimum Requirement for own funds and Eligible Liabilities
NCWO	No Creditor Worse Off
NLF	National Loans Fund
PI/EMI	Payment and Electronic Money Institutions
PIT	Public Interest Test
PRA	Prudential Regulation Authority
PSP	Private Sector Purchaser
RAF	Resolvability Assessment Framework
RD	Resolution Directorate (BOE)
RLF	Resolution Liquidity Framework
RRP	Recovery and Resolution Plan / Planning
SoP	Statement of Policy
SRO	Special Resolution Objectives
SRR	Special Resolution Regime
TLAC	Total Loss-Absorbing Capacity
TPLE	Trilateral Principal Level Exercise
TPO	Temporary Public Ownership
U.K.	United Kingdom
U.S.	United States

EXECUTIVE SUMMARY

The United Kingdom (U.K.) bank resolution and financial crisis readiness arrangements are sound but with opportunities for continued and accelerated enhancements. The U.K. authorities' individual and collective crisis readiness—including with other major jurisdictions—continues to improve. Mid-2022, all major U.K. banks and the authorities will issue the first public statements about these banks' resolvability. This is supported by a comprehensive special resolution regime (SRR) and resolvability assessment framework (RAF) for banks. Yet, there is space—and a need—to further enhance the SRR, including its application to central counterparties (CCPs), and to introduce one for insurance companies. Furthermore, elements of the deposit insurance system and firm-specific resolution decision-making should be strengthened, and implementation and reputation risk addressed.

The U.K. authorities are strengthening their crisis readiness. The BOE has revamped its crisis readiness governance, including a Heightened Contingency Framework (HCF) Project. Her Majesty's Treasury (HMT) has furthered its Professionalising Crisis Management (PCM) Project. The Financial Conduct Authority (FCA) and the Financial Services Compensation Scheme (FSCS) are undertaking similar efforts. The authorities test and update their crisis readiness individually and collectively, including with counterparts in the United States (U.S.) and the European Union (EU)—the three jurisdictions are home to 19 of the 30 global systemically important banks (GSIBs). As there has been no need to apply the SRR since 2011, these crisis readiness efforts help mitigate any loss of experience in applying the SRR. *The authorities should continue preparing for diverse failure scenarios, including fast-fail resolutions and concurrent failures of multiple major and mid-tier firms.*

The SRR for banks appears robust but assigns HMT a critical role in firm-specific resolution decisions. It is broadly consistent with pertinent international standards and includes modified insolvency regimes for a host of financial firms. The BOE plays a key role in the court-based insolvency proceedings. Besides its inherent regulatory and policy role, under certain conditions, HMT plays a critical role in elements of firm-specific resolution decisions. As there has been no need to apply the SRR since 2011—and never to a systemic bank—it is unclear how HMT's involvement in firm-specific decisions will affect the delivery of prompt and effective actions, including in cross-border cases. *It is important to support the operational autonomy of the BOE and the FSCS, and the level of HMT's involvement in firm-specific resolution decisions should be reviewed and clarified to moderate this involvement to focus on cases where public funds are at risk.*

The authorities are working toward the 2022 deadline to make all eight major U.K. banks resolvable. A comprehensive RAF Statement of Policy (SoP) supports the authorities and the firms in meeting this commitment; public disclosures on the major U.K. banks' resolvability are expected in mid-2022. Material foreign subsidiaries and some mid-tier banks too are subject to the RAF SoP, except for the reporting and public disclosure requirements. How the authorities hold firms accountable for their resolvability may affect the RAF's efficacy. *It will be important to ensure that the BOE undertakes the resolvability assessments with a high degree of independence and heightened vigilance in scrutinizing the reliability of banks' RAF reporting.*

The United Kingdom's withdrawal from the European Union, fundamentally changed their formal cooperation arrangements, which offers challenges and opportunities. Continued efforts to strengthen mutual trust and maintain or increase existing cooperation and coordination between U.K. and EU authorities will support the reduction of cross-border legal and operational risks. *Besides challenges, Brexit also offers an opportunity to address EU legacies that have imported inflexibilities that may weaken the U.K. resolution regime.*

In response to the COVID-19 outbreak, the authorities delayed some recovery and resolution planning (RRP) requirements. To alleviate operational burdens on PRA-regulated firms, the PRA cancelled the major banks' recovery plan submission for 2020, and the BOE and PRA extended deadlines for major banks' resolvability reporting and disclosures, compliance with valuation capabilities, and resolution pack submissions; the BOE also set a longer transition time for mid-tier firms to meet higher levels of minimum requirement for own funds and eligible liabilities (MREL). The 2022 deadline for major U.K. firms to achieve the RAF resolvability outcomes was maintained; the deadline for mid-tier banks was extended to 2023.

The authorities are considering enhancing the resolution regimes for CCPs and insurers. With modifications for CCP characteristics, the SRR applies to the three recognized U.K. CCPs, aiming to achieve the same objectives as the banks' SRR, under similar conditions and with similar powers. However, this regime predates pertinent international guidance issued since 2012; nor was the EU CCP recovery and resolution planning (RRP) regime onshored prior to Brexit as the European Union had not yet implemented it at that stage. HMT is considering statutory changes for an expanded CCP resolution regime with more powers for BOE. There is a modified insolvency regime for insurers, which HMT seeks to strengthen. Meanwhile, HMT, alongside the BOE, is considering an SRR for insurers, and the Prudential Regulation Authority (PRA), together with the BOE, is developing an RRP approach for insurers. *These legislative and policy efforts should be accelerated and complemented with a RAF-like regime after gaining experience with the RAF for banks.*

The FSCS should build up a prefunded deposit insurance fund with an appropriate target level. The FSCS collects levies from the industry on a pay-as-you-go basis, making it in certain cases dependent on HMT loans. The FSCS' financial fire power should be expanded with sufficient funds under its direct control and investment. *To achieve this, the authorities should ensure a prefunded FSCS with a target level that is appropriate for the U.K. financial system.*

Finally, if staffing resources were to prove insufficient, the authorities would be exposed to implementation and reputation risk. The authorities' staffing for recovery, resolution, and crisis management has increased but the demands on the authorities remain significant. As the resolvability regime evolves, crisis readiness projects intensify, international engagements expand, and particularly if the amount of contingency planning increases, staff may need to deprioritize some business-as-usual (BAU) activities. These developments will likely continue, and when COVID-19 measures wind down, nonperforming assets may rise, putting pressures on firms. *The authorities should continue to ensure that staffing resources are commensurate in quantity and quality with increasing demands due to market developments and policy ambitions.*

Table 1. United Kingdom: Recommendations on Financial Safety Net and Financial Crisis Preparedness		
Recommendations and Responsible Authorities	Timing*	Priority
1. Continue pursuing staffing resources that are commensurate in quantity and quality with increasing demands and ambitions (all; ¶17).	C	H
2. Continue preparing for diverse failure scenarios, including fast-fail resolutions and a concurrent failure of multiple major and mid-tier firms (all; ¶43).	C	H
3. Eliminate rules that may constrain resolution funding and ensure that subsidy policies support effective resolution strategies (HMT, BOE; ¶19, ¶30).	MT	H
4. Seek to further deepen cooperation and coordination arrangements with key jurisdictions (BOE, HMT; ¶36, ¶44).	C	M
5. Build up a prefunded deposit insurance fund with an appropriate target level (HMT, FSCS; ¶33)	NT	M
6. Complete implementing the IEO recommendations on the BOE resolution arrangements and undertake independent evaluations of contingency planning at HMT, FCA, FSCS (all; ¶41).	NT	M
7. Continue to enhance the consistency and perimeter of recovery plan reviews, and to ensure that recovery actions do not impede firms' resolvability (PRA; ¶24).	NT	M
8. Expand bail-in guidance to its use in combination with other stabilization tools, and to its cross-border application (BOE; ¶30)	NT	M
9. Finalize guidance on the recognition of foreign resolution actions (BOE, HMT; ¶40)	NT	M
10. End the discriminatory treatment of overseas branch depositors in the creditor hierarchy (HMT; Appendix, item #8).	NT	M
11. Finalize the resolution plans for CCPs and the legislation for an expanded CCP resolution regime, including a statutory requirement for regular resolution planning; expand the RAF to CCPs (HMT, BOE; ¶16, ¶27).	MT	M
12. Strengthen the regime for failing insurers, including their insolvency regime, and introducing an RRP approach for insurers that could be systemically significant or critical if they fail and an SRR that ensures effective group-level resolutions; expand the RAF to insurers (HMT, PRA, BOE; ¶17, ¶27).	MT	M
13. Review and clarify the level of HMT involvement in firm-specific resolution decisions to moderate this involvement to focus on cases where public funds are at risk; use a consistent threshold for HMT involvement; use a clearer definition of public funds; and publicly articulate the rationale for proportionate HMT and ministerial involvement where there are no public funds risks (HMT, BOE; ¶21).	MT	M
14. Expand RAF reporting and/or disclosure requirements to mid-tier banks and material foreign subsidiaries (HMT, BOE; ¶27).	MT	L
15. Adopt internal guidance to support effective independent bank branch resolutions as a fallback option (BOE; ¶13)	MT	L

* C: continuous; I: immediate (< 1 year); NT: short term (1–2 years); MT: medium term (3–5 years).

INTRODUCTION

A. Scope of Assessment

1. This note sets out the analysis and detailed recommendations of the 2021 FSAP pertaining to the financial safety net and financial crisis preparedness in the United Kingdom.¹

The note summarizes the FSAP findings, including the virtual missions undertaken in May–June and November 2021, during which meetings were held with officials and senior staff of HMT, BOE, FCA, and the FSCS, and with private-sector stakeholders, including banks and building societies, industry associations, and audit firms. The note considers developments since the 2016 FSAP,² and it is based on the regime in place and the practices employed on November 15, 2021. The FSAP thanks the authorities for the constructive dialogue and the many insights that they have shared.

2. **The note focuses on the major and mid-tier U.K. banks and building societies.**³ For smaller firms, the note focuses on deposit insurance; it also describes the RRP and insolvency regimes for CCPs, payment and electronic money institutions, and insurance companies. The note does not discuss failures of markets. Although emergency liquidity assistance (ELA) is a component of the financial safety net, it is discussed in the FSAP note on ‘Systemic Liquidity Vulnerabilities;’ the current note does discuss funding in resolution, which is also covered in the ‘liquidity note.’

3. **The FSAP analyzed the U.K. financial safety net and financial crisis arrangements,⁴ considering the U.K. financial sector landscape, U.K.-specific challenges, international standards, and emerging good practices.** While the note does not formally assess compliance with any standard, two international standards in particular informed the analysis: [Key Attributes of Effective Resolution Regimes for Financial Institutions](#) (KA);⁵ and [Core Principles for Effective Deposit Insurance Systems](#) (CP); and their assessment methodologies.⁶

4. **Other FSAP notes cover the preconditions that the international standards identify for effective bank resolution and deposit insurance:** (1) a well-established framework for financial stability surveillance and policy; and (2) an effective system of supervision, regulation, and oversight. The standards also call for a robust accounting, auditing, and disclosure regime, and a well-developed legal framework and judicial system—all of which fall outside the scope of this note.

¹ Author: Atilla Arda (IMF, Financial Crisis Preparedness and Management Division).

² This note supplements and complements the 2016 [IMF Country Report No. 16/155](#).

³ The major firms are four GSIBs (Barclays, HSBC, Santander UK, Standard Chartered) and four domestic systemically important banks (Lloyds Banking Group, Nationwide Building Society, NatWest Group, Virgin Money UK).

⁴ The FSAP did not assess the pertinent agencies’ business continuity planning that aims to ensure the continuity of their own operations, staff, and facilities when affected by external events, such as a cyber-attack or a pandemic.

⁵ Most of the KAs apply not only to GSIBs but to any financial institution that could be systemically significant or critical if it fails—see, for example, Chapter IV of the [KA Assessment Methodology for the Banking Sector](#).

⁶ Consistent with the methodologies, the FSAP did not have access to confidential firm-specific RRPs, and the FSAP made no judgment on individual firms’ resolvability.

B. The U.K. Financial System and Safety Net Members

5. The U.K. financial system is truly global and divided roughly equally in asset size between banks and nonbanks, which are interlinked through activities and ownership.

Globally, the U.K. is the biggest “host country” to foreign financial firms; it is home to three GSIBs and virtually all foreign GSIBs have U.K. subsidiaries or branches. The financial industry is serviced by some of the best and largest law and consultancy firms, and it is represented by several professional industry associations.

6. The U.K. financial safety net comprises five key members.

- HMT has legislative and policy responsibilities for financial stability and fiscal policy, and it has a role in ensuring the appropriate use of public funds for resolution; as a last resort, HMT can take a firm into temporary public ownership (TPO).
- The BOE is the resolution authority for banks, building societies, certain investment firms, and CCPs; it determines whether the conditions for entering resolution are met and offers liquidity support, including as ELA and under the resolution liquidity framework (RLF) to banks in resolution.
- Through the PRA, the BOE prudentially regulates and supervises several types of financial firms; the PRA determines whether a bank, building society, or dual-supervised investment firm is failing or likely to fail—the PRA advises on other resolution decisions.
- The FCA is the conduct regulator for all regulated financial services firms and the prudential supervisor for all solo-regulated financial firms; it works closely with the other safety net members on BOE-led resolutions.
- The FSCS compensates eligible consumers such as covered depositors, investors, and policy holders, when certain firms fail.

7. The authorities’ staffing for resolution and crisis management has increased but continues to be stretched. At end-2020, BOE’s Resolution Directorate (RD) and HMT’s Financial Stability Group (FSG) had 87 and 74 full-time equivalent (FTE) staff, respectively, growing in the past five years from 50 and 38 FTE, respectively.⁷ The FCA’s Resolution Execution Department has 30 FTE staff mitigating the failure of solo-regulated firms and working with FCA supervisors and other authorities for dual-regulated firms. As the resolvability regime evolves, crisis readiness projects

⁷ RD comprises five units: Policy; Domestic Resolvability; International Resolvability; Heightened Contingency Framework; and Resolvability Assessment Framework. A team from the BOE’s Legal Directorate supports RD; RD can also draw resources across BOE and PRA. FSG comprises four teams: (i) Banking Assets & Resolution Strategy; (ii) Resilience and Resolution; (iii) Structural Policy and Strategy; and (iv) Systems, Stability and Analysis. Close to half of FSG staff works on resolution matters full time, while HMT’s reservist program ensures that FSG staff and alumni are regularly trained and are capable of being drafted in at short notice. FSG works closely with other HMT experts, including in the Financial Services Group with about 150 FTE staff. HMT’s resourcing model allows for extra resources to be drawn into FSG, or scaled down, to meet the department’s needs.

intensify, international engagements expand, and particularly if the amount of contingency planning increases, staff may need to deprioritize some BAU activities. These developments will likely continue, and when COVID-19 measures wind down, nonperforming assets may rise, putting pressures on firms. The FSAP welcomes initiatives to solidify the additional temporary staff that was allocated in recent years and to recruit staff with skills that match the evolving maturity of the resolution regime. The authorities should continue to ensure that the staffing for resolution and crisis management is commensurate in quantity and quality with increasing demands due to market developments and policy ambitions.

C. Developments Since the 2016 FSAP

8. The authorities addressed many 2016 FSAP recommendations. These focused on the bank resolution regime (e.g., liquidity support, U.K. branches), cross-border cooperation (e.g., overseas branch depositors, engagement with smaller jurisdictions), deposit insurance (e.g., lack of a prefunded deposit insurance fund [DIF]), and crisis management (e.g., the role of the FCA/FSCS, the resolution fund). Of the 14 recommendations, the U.K. authorities implemented 8; 2 were partially implemented; 2 will be implemented in the near term (Appendix I).

9. The U.K. bank resolution regime underwent an almost wholesale update in the last five years. Legislation was updated throughout, including to implement changing EU rules. Key policies and cooperation arrangements were updated, e.g., [approach to resolution](#), [HMT-BOE memorandum of understanding \(MOU\) on resolution planning and financial crisis management](#), [special resolution regime code of practice](#). New policies, guidance, and facilities were introduced, e.g., [approach to assessing resolvability](#), [approach to setting MREL](#), [approach to providing liquidity in resolution](#), and [guidance on executing bail-in](#). The authorities engage with the industry and the public through discussion and consultation papers,⁸ and a joint Regulatory Initiatives Grid.⁹ At the time of writing this note, legislative and policy work was continuing on, for example, [CCP resolution](#), [insolvency arrangements for insurers](#), and [MREL](#).¹⁰

10. The United Kingdom left the European Union, fundamentally changing their formal cooperation arrangements, which offers challenges and opportunities. After a referendum in June 2016, the United Kingdom left the European Union on January 31, 2020, with a transition period ending on December 31, 2020. While the United Kingdom being a ‘third-country’ from the EU’s perspective is not unique, Brexit has fundamentally changed the formal cooperation arrangements between the two jurisdictions. For example, U.K. authorities are no longer members of the EU’s ‘resolution colleges,’ and the automatic recognition of their respective resolution decisions does not apply. What has not changed is that currently in both jurisdictions, ultimate decision-making on cross-border resolutions requires decisions at the political level. It is therefore

⁸ See particularly the BOE’s website on ‘Resolution’ with pertinent policies, papers, and consultations: <https://www.bankofengland.co.uk/financial-stability/resolution>.

⁹ The Regulatory Initiatives Grid from the Financial Services Regulatory Initiatives Forum can be found here: <https://www.fca.org.uk/publications/corporate-documents/regulatory-initiatives-grid>.

¹⁰ The [revised MREL policy was published](#) after this note’s cut-off date and was therefore not assessed.

encouraging that the U.K. authorities continue to engage with international counterparts to support and promote cross-border cooperation and coordination of resolution, and to reduce legal and operational risks, for example through the Trilateral Principal Level Exercise (TPLE) expanded upon below). The FSAP note on ‘Implications of Brexit on Cross-Border Financial Services’ discusses these matters more comprehensively. Besides challenges, Brexit also offers an opportunity to address EU legacies that have imported inflexibilities that may weaken the U.K. resolution regime (see ¶19, ¶30 below).

11. While the COVID-19 outbreak did not cause a financial crisis, the authorities did use the general U.K. financial crisis management framework. No bank failed during the pandemic, but the Authorities’ Response Framework (ARF) was activated to coordinate the authorities’ response. To [alleviate operational burdens on PRA-regulated firms](#), the PRA cancelled the major U.K. banks’ recovery plan submission for 2020, and the BOE and PRA extended deadlines for major banks’ resolvability reporting and disclosures, compliance with valuation capabilities, and resolution pack submissions; the BOE also set a longer transition time for mid-tier firms to meet higher MREs. The January 1, 2022 deadline for major firms to achieve the RAF resolvability outcomes was not changed.

WHEN FIRMS FAIL

A. (Investment) Banks and Building Societies

12. The SRR comprises stabilization powers and modified insolvency procedures. The stabilization powers include BOE’s bail-in and transfer powers. Firms’ business or shares can be transferred to a private sector purchaser (PSP), to a temporary bridge bank that the BOE would control and operate, or an asset management company (AMC) owned by HMT or the BOE and controlled by the BOE—or, as a last resort, to a company owned by HMT. Because these powers could interfere with property rights, statutory safeguards are in place. These include independent valuations and the principle that no shareholder or creditor should be left worse off in resolution than they would have been in an insolvency (NCWO safeguard). Modified court-based insolvency and special administration procedures for banks, building societies, and investment banks are part of the resolution regime.¹¹ Only BOE, the PRA (or FCA), or the Secretary of State for Business, Energy and Industrial Strategy can apply under these modified procedures. They would nominate the Liquidator and a Liquidation Committee’s members;¹² the FSCS would sit on a Creditor Committee.

¹¹ There are also combined procedures for deposit-taking firms that hold client assets. From January 1, 2022, only PRA-designated investment firms are within the resolution regime—and not other ‘730k firms.’

¹² For banks and building societies, a Liquidator’s primary responsibility is to work with the FSCS to ensure that eligible depositors have their accounts transferred to another financial firm or receive a direct payment from the FSCS. Its secondary objective is to wind down the firm in the best interest of the creditors. A Liquidator’s powers include the transfer, in whole or in part, the firm’s business and property.

When BOE decides to use its transfer powers (and deems the residual firm unable to pay its debts) it would nominate and engage closely with the Administrator to ensure continuity of services.¹³

13. The SRR applies, in certain circumstances, to foreign bank branches in the United Kingdom. The United Kingdom hosts several systemic branches, including particularly from the European Union, with balance sheets more than £15bn-25bn. With modifications for branch characteristics, most [SRR powers are available to resolve bank branches](#) to support a foreign resolution action, or independently in the event cooperation between resolution authorities proves ineffective and where action is required to uphold U.K. financial stability. Pre-resolution powers to remove impediments to the use of the SRR's stabilization powers are excluded from the branch resolution regime. The U.K. authorities aim to support effective cross-border resolution consistent with a firm's group resolution strategy and rightfully consider independent branch resolution as a fallback option. However, the interests and perspectives of home and host authorities are not always fully aligned, as foreign banks' U.K. activities may differ from those undertaken by the parent company (for example, more investment banking in the United Kingdom). Now that the United Kingdom has left the EU, there are more branches that these powers could apply to. Therefore, there is merit in adopting internal guidance to support effective independent branch resolutions as a fallback option.

14. A public interest test (PIT) determines whether stabilization powers are used or, alternatively, insolvency procedures are followed. The BOE undertakes the PIT when the prudential supervisor—that is, the PRA or the FCA—has decided that the firm is failing or likely to fail (Condition 1), and the BOE has concluded it is not reasonably likely that action will be taken by or in respect of the failing bank that will result in Condition 1 ceasing to be met. For the PIT, BOE determines whether using stabilization tools—instead of insolvency procedures—would advance the several statutory special resolution objectives (SROs), which need to be appropriately balanced: to ensure the continuity of banking services and critical functions; to protect financial stability, public confidence, and funds, covered depositors, covered investors, and client assets; and to avoid undue interference with property rights. The BOE has discretion in determining whether the PIT is met, after consultation with the other safety net members, and it appreciates the benefits of the stabilization powers. For the larger firms it is anticipated that the primary course of action will most likely continue to be the use of the stabilization powers; modified insolvency procedures—including the transfer of deposits—would be primarily used for the smallest firms with less than 40,000–80,000 transactional accounts.¹⁴ BOE considers bail-in the preferred resolution strategy for the largest and most complex firms with a total balance sheet above £25 billion and most likely with balance sheets greater than around £15 billion; for other firms, the partial transfer resolution strategy is considered to be more appropriate.

¹³ For banks and building societies, an Administrator's primary responsibility is to support a PSP or a bridge bank. Its secondary objective is to rescue the residual firm as a going concern, or to achieve a better result for the residual firm's creditors than would be likely if wind down would take place without prior administration.

¹⁴ Arguing that technological innovations in finance could mitigate disruptions in the insolvency of some mid-tier firms, BOE is considering whether it could significantly raise or remove the transactional accounts threshold.

15. The SRR applies to the seven commercial banknote issuers in Scotland and Northern Ireland.¹⁵ Single point of entry bail-in is the preferred resolution strategy for the groups that these firms are part of. For the U.K.-headquartered groups, BOE would exercise the stabilization powers; for hosted firms, the home-authority would lead the group resolution. This should ensure the continuation of commercial banknote issuance. In the unexpected case of a disruption—with a full or partial transfer of the assets and liabilities of the insolvent issuer to a bridge bank or PSP—BOE would exchange the insolvent issuer’s banknotes for other issuers’ banknotes, coins, or other funds. If it were a share transfer, there would be no need for a banknote exchange.

B. CCPs

16. The U.K. resolution regime for CCPs predates much of the pertinent international guidance and is being updated. With modifications for CCP characteristics, the SRR applies to the three recognized CCPs (LCH, LME Clear, ICE Clear Europe), aiming to achieve broadly the same SROs as discussed above for banks, under similar conditions and with similar powers. In 2012, the United Kingdom was one of the first countries to introduce a resolution regime for CCPs. Subsequently, international guidance on the matter was introduced.¹⁶ In May 2021, HMT concluded a [public consultation to expand this regime](#); it is considering statutory changes when parliamentary time allows. The changes under consideration would give BOE additional powers, including for removing impediments to resolvability, triggering resolution before CCPs’ recovery measures have been exhausted, restricting remuneration of equity, suspending early termination rights, taking control of a CCP, appointing temporary managers, reducing variation margin payments, and returning a CCP to a matched book. The changes would also require CCPs to hold a greater amount of loss-absorbing capital (second tranche of ‘skin in the game’), give BOE write-down and cash-call powers, and introduce an NCWO safeguard. The FSAP welcomes these improvements. The BOE should finalize the CCPs’ resolution plans and be subject to a statutory requirement for regular (e.g., annual) resolution planning, including resolvability assessments, for CCPs.

C. Insurance Firms

17. The authorities intend to introduce an SRR for insurance companies. Currently, a solvent run-off is the PRA’s preferred approach for managing an insurer’s failure: the firm retains its permissions for existing contracts, but it cannot write new business; a portfolio transfer too would be possible.¹⁷ The PRA, FCA, creditors, shareholders, and directors can also apply to the courts for a modified insolvency procedure. Mid-August 2021, HMT concluded [a consultation to amend this](#)

¹⁵ Bank of Scotland, Clydesdale Bank, The Royal Bank of Scotland, Bank of Ireland, Danske Bank (formerly Northern Bank), AIB/First Trust Bank (ceases issuance in June 2022), and NatWest Bank (issuing notes branded as Ulster Bank).

¹⁶ International guidance on CCP resolution includes particularly the [KA Sector-specific Guidance for financial market infrastructures](#) (2014), [FSB Guidance on Central Counterparty Resolution and Resolution Planning](#) (July 2017), [FSB Guidance on Financial Resources to Support CCP Resolution and on the Treatment of CCP Equity in Resolution](#) (November 2020)—and relatedly, [CPMI-IOSCO Guidance on FMI Recovery](#) (July 2017).

¹⁷ For a comprehensive assessment of the regime that applies to U.K. insurance companies’ market exit, see the FSAP “Report on the U.K.’s Observance of the Insurance Core Principles.”

[insolvency procedure](#).¹⁸ The proposed changes would enhance the courts' existing write-down powers and introduce a court-appointed 'write-down manager,' and introduce a moratorium for certain contractual termination rights, a stay—for life insurance only—on policy holder surrender rights in certain circumstances, and policy holder protections against write-downs. The FSAP welcomes these changes. While the U.K. authorities have been closely engaged in developing international guidance for the resolution of insurers,¹⁹ HMT acknowledges that the U.K. arrangements are not fully aligned with this guidance: there is no SRR for insurers, including a designated administrative resolution authority. HMT and BOE intend to propose such SRR. In the meanwhile, the PRA, together with the BOE, is developing an RRP approach for insurance companies,²⁰ complementing firms' duty under the PRA's [Fundamental Rule 8](#), requiring firms to prepare for their own orderly resolution. The FSAP welcomes these efforts and stresses the importance of effective resolution at the group level.

D. Payment and Electronic Money Institutions

18. In 2021, the U.K. government introduced a bespoke administration regime for payment and electronic money institutions (PI/EMI). [This regime](#) is based on the [special administration regime for investment banks](#). The initiative to introduce a bespoke regime for PIs/EMIs was informed by the rapid change in the U.K. payments landscape and evidence that the existing insolvency process for these institutions was suboptimal for consumers: recent pertinent administration cases had taken years to resolve, with customers left without access to their money for prolonged periods and receiving reduced monies after the cost of distribution. A key feature of the new regime includes an explicit mandate for the special administrator to return customer funds sooner, including via a mechanism to facilitate the transfer of customer funds to a PSP. Depending on the pace of change and the size of PIs/EMIs, there could be merit in developing a policy to determine when an RRP approach for PIs/EMIs may be needed.

E. Post-Brexit Future Improvements

19. Certain EU legacies in the U.K. resolution regime may constrain the use of public funds for resolution measures. With the United Kingdom outside the EU, the authorities should eliminate the following from the U.K. rulebook.²¹

¹⁸ Lloyd's of London would continue to be subject to separate restructuring and winding-up procedures.

¹⁹ The 2014 KA include [sector-specific guidance for the resolution of insurers](#); in 2020, the FSB published the [KA assessment methodology for the insurance sector](#). The International Association of Insurance Supervisors (IAIS) published Application Papers on [Recovery Planning](#) (2019) and on [Resolution Powers and Planning](#) (2020). See also IAIS [Insurance Core Principle 12](#), requiring legislation for the resolution of insurers.

²⁰ Dear CEO Letter, '[PRA Insurance Supervision: 2021 priorities](#),' December 2020

²¹ These recommendations are consistent with those made by the 2018 euro area FSAP in [IMF Country Report No. 18/232](#).

- *The mandatory minimum eight percent bail-in requirement before accessing resolution financing arrangements or using the TPO tool;*²² *the five percent cap on support from the resolution fund.* In the United Kingdom, these have been laid down in the SRR Code of Practice and not in primary legislation, making it easier to move from a rule-based system with specific percentages to a principles-based approach with broad policy intentions. While supporting bail-in powers and efforts to protect public funds, the FSAP favors flexibility and does not support mandatory minimum bail-in requirements for accessing public or industry-funded financial sources or caps thereupon. Alternatively, the U.K. authorities should introduce a financial stability exemption, like the one the IMF advised for the euro area.
- *State aid rules together with a broad definition of ‘public funds.’* In the EU, mandatory industry-funded DIFs and resolution funds are considered ‘public funds’ and therefore subject to state aid rules; the United Kingdom too considers levies collected from the industry as public funds. The U.K. authorities should ensure that state aid or subsidy control considerations do not prevent action being taken to maintain financial stability. The prudential carveout under the U.K.-EU Trade and Cooperation Agreement, which is reflected in the proposed financial stability direction power in the [Subsidy Control Bill](#), should provide the U.K. authorities with the relevant powers to achieve this.

F. The Role of HM Treasury

20. HMT holds the purse strings and sway in firm-specific resolution decisions:

De facto decision-making power. Resolution funding may be sourced from a bank levy that the largest firms pay to HMT. The bank levy is a U.K. tax, and its revenues go into the Consolidated Fund (that is, the U.K. government’s general bank account); any use thereof, either up to the amount raised with the bank levy or more than that, requires HMT decision for which Ministers are accountable to parliament and the public. Furthermore, the FSCS depends on government loans for bank insolvencies when it cannot meet costs with levies, recoveries, or via its commercial borrowing facility, which is the case if any of the largest non-SIBs were to fail.

De jure decision-making power. When public funds would be at risk,²³ irrespective of the amounts involved, HMT has directive powers and can commission BOE to assess mitigating measures, including alternative resolution options to reduce the cost for the government. Moreover, HMT consent or approval is required in a host of resolution decisions—some of which are without a specific fiscal policy consideration built into the statutory or policy requirements, including:

²² Removing this mandatory minimum will be more important if—as under consideration by the U.K. authorities—the timeline for new and growing firms to reach their end-state MREL targets will be extended from three to six years. During this period, many of these firms may not have sufficient MREL for an effective bail-in resolution strategy.

²³ The circumstances in which public funds would be at risk are as follows (Financial Services Act 2012): (i) HMT might reasonably be expected to find it appropriate to provide financial assistance; (ii) HMT or the BOE might reasonably be expected to regard it as appropriate to exercise any of their respective SRR powers, and HMT might reasonably be expected to find it appropriate to incur expenditure in connection with the exercise of those powers; or (iii) the FSCS might reasonably be expected to request financial assistance from HMT, including via the National Loans Fund (NLF).

- the use of any resolution tool if this would be even just “likely” to implicate public funds;
- transfer to a PSP, bridge bank, or AMC, of a firm that received prior financial assistance from the government.
- BOE ELA and use of the RLF (either with or without a government indemnity).
- the use of any resolution tool for the resolution of a U.K. branch of a foreign bank;
- the recognition of foreign resolution decisions; and
- to impose special continuity obligations on group companies in resolution, in which case [“Ministers will assess the broad public interest of the particular situation.”](#)

21. The level of HMT’s involvement in firm-specific resolution decisions should be reviewed and clarified to moderate this involvement to cases where public funds are at risk.

The FSAP supports interagency cooperation and recognizes that HMT support is needed for the use of public funds in resolutions. This includes particularly the use of the government stabilization tools or an HMT-owned AMC, and provision of exceptional financial support. However, as discussed above, while the BOE is responsible for resolution actions, HMT plays a critical role in approving or consenting to certain operational firm-specific resolution decisions even when public funds are not entailed. To support the operational autonomy of the BOE and the FSCS, it is important to minimize the perception of firm-specific resolution decisions being politicized—including in cross-border contexts—along three lines: (i) a clearer definition of what constitutes ‘public funds’ and how this affects decisions on funding of deposit insurance, including a prefunded DIF as discussed in ¶133 below; (ii) a consistent threshold for all HMT involvement along the lines prescribed in Article 58 of the Financial Services Act 2012, i.e., where there is a material risk of circumstances arising in which public funds would be put at risk as detailed in footnote 23;²⁴ and (iii) a public (e.g., in the SRR Code of Practice) articulation of and rationale for proportionate HMT and ministerial involvement where there are no public funds risks, such as the government’s broader responsibility for the United Kingdom’s compliance with its international obligations (including economic and financial sanctions). Additionally, the authorities should reconsider the instances of mandatory consultations of HMT by the BOE,²⁵ particularly in firm-specific decisions as to whether the conditions to trigger resolution are met,²⁶ which could be replaced with a notification requirement (as is the case for the circumstances described in Article 58 of the Financial Services Act 2012).

²⁴ Currently, the statutory threshold for HMT involvement in firm-specific resolution decisions ranges from no fiscal consideration, to “likely” or “material” risks to public funds.

²⁵ The House of Commons, Treasury Committee, questioned even whether regulators should share general policy proposals with Ministers, noting that with such consultations “the perception of regulatory independence from government could be damaged.” The Future Framework for Regulation of Financial Services, [Fifth Report of Session 2021–22](#) (June 30, 2021).

²⁶ One of these technical conditions is that “having regard to timing and other relevant circumstances, it is not reasonably likely that...action will be taken by or in respect of the bank that will result” in the bank ceasing to be “failing or likely to fail.” It is unclear what additional information HMT would be able to offer to assist in such technical and firm-specific decisions, which should be left to autonomous regulators with detailed information and deep understanding of the firms under their responsibility.

PLANNING FOR WHEN VIABILITY IS IN JEOPARDY

A. How Do Firms Plan to Restore Their Viability in Times of Distress?

22. Firms have made good progress with their recovery planning... The framework for recovery planning by banks and building societies is well developed.²⁷ All firms are subject to annual recovery planning requirements albeit in varying frequencies and detail. The frequency of submissions to the PRA and the detail of the plans varies: the largest firms annually with four scenarios; mid-tier firms, three scenarios typically every 2–3 years; the smallest firms, two scenarios typically every 3–4 years. The authorities noted the significant progress in the last five years that particularly the largest firms made in their recovery planning with better integration of recovery planning into their BAU risk management framework, less material deficiencies, and increased credibility and usability of the plans. Firms' fire drills,²⁸ for example to test their internal recovery governance arrangements, increased engagement by the firms' senior management and boards, and strengthened their ownership of the recovery planning process. Potential mutually reinforcing concurrent recovery actions by multiple firms are mitigated in the recovery plans with built in stress-specific discounts on share pricing, asset valuations, franchise value, etc.

23. ...but further improvements are needed, particularly in firms' recovery capacity and governance.²⁹ The U.K. authorities acknowledged that further work is needed, particularly on the interaction, complementarity, and governance of group and subsidiary plans, and the firms' ability to update their plans on short notice. They also observed that firms overestimate their recovery capacity and are overly optimistic on the amount of equity that they could raise; other challenges include asset sales, disposal options, and winding down the trading book. The FSAP's private sector counterparts made similar observations.

24. The PRA's recovery planning assessments are building in enhanced consistency. For the major firms, the PRA uses a recovery plan assessment and scoring framework to review firms' recovery plans and inform the PRA's feedback to the firms. For these firms the PRA also undertakes cross-firm reviews and scoring, distills best practices, and applies these across firms. The PRA does not have a similar approach for other firms because of their multi-year, unsynchronized submission timelines. Moreover, the recovery plan review work is a shared responsibility between a small, centralized team and the several supervisory teams. The PRA centrally organizes and applies the assessment and scoring framework to the recovery plans of all firms; it is expanding cross-firm reviews and scoring to all mid-tier firms. Trials with peer review panels, from other supervisory teams, were postponed due to Covid. The PRA should continue to enhance the consistency and perimeter of the recovery plan reviews. The authorities recognize that recovery actions can affect

²⁷ See PRA [Supervisory Statement on Recovery Planning SS9/17](#) (July 2020)

²⁸ Fire drills include independent observers, such as, external auditors. Firms share with the PRA the proposed actions that are based on the lessons learned during the drills.

²⁹ [In 2019, the PRA included](#) in the [Senior Managers Regime](#) the responsibility for developing and maintaining a firm's recovery plan and resolution pack and for overseeing the internal processes regarding their governance.

future resolution measures, particularly in the runway to failure and for post-resolution restructuring. RD participates in the PRA's firm-specific periodic summary meetings, where resolvability is considered and embedded in the PRA's supervisory approach. It will be important to continue to ensure clarity, particularly during mutual PRA-BOU RRP consultations and in contingency planning, on the 'recovery-resolution-continuum' with recovery actions not impeding firms' resolvability.

B. How Do the Authorities Plan to Manage the Failure of Firms?

25. The U.K. authorities are transparent about their approach to resolution. The SRR is laid down in the Banking Act 2009, and the BOE has published its '[Approach to Resolution](#),' setting out how the SRR works and how BOE would likely implement a resolution. The [SRR Code of Practice](#) and the [HMT-BOE MOU on resolution planning and financial crisis management](#) complement the legal and policy frameworks: the Code explains how and in what circumstances the authorities will use the SRR tools; the MOU describes the division of labor and cooperation between the HMT and the BOE. The authorities regularly engage with the industry to further clarify their policies and expectations.³⁰

26. While BOE undertakes resolution planning for all firms subject to the SRR, it has made firms responsible for their own resolvability. BOE has developed resolution plans for around 400 firms, including material U.K. subsidiaries of foreign firms—which are annually reviewed and updated as needed. For many of these firms, modified insolvency is the preferred resolution strategy with payouts to the depositors or transfer of their deposits to another firm. For 18 firms, BOE has decided on either a BOE-led bail-in or transfer of business resolution strategy. BOE has published details on the expectations for all firms, prioritizing the most important barriers for resolvability.

27. Firms will be held accountable for their resolvability. A [Resolvability Assessment Framework](#) (RAF) comprehensively sets out the resolvability outcomes that firms are expected to achieve (Box 1). The FSAP's private sector counterparts noted that the high-level and outcome-based approach to resolvability is a challenge for firms, particularly for mid-tier firms; furthermore, the RAF policy was finalized only in July 2019 and some of the supporting guidance is even of a more recent date. In October 2021, the major firms reported to the authorities, and in 2022 they will disclose to the market about their resolvability capabilities. At that time, BOE too will make public statements about these firms' resolvability. The FSAP's private sector counterparts noted that the industry is discussing—also with the authorities—how best to organize and shape the public disclosures. After gaining experience with the major U.K. banks, the authorities should gradually expand the reporting and/or disclosure requirements to U.K. material subsidiaries of foreign firms and to the mid-tier firms that are subject to the RAF to inform market discipline and confidence,³¹ and expand the RAF to cover also CCPs and insurers.

³⁰ For example, see the '[Dear CEO Letter](#)' on February 24, 2021, from Dave Ramsden on firms' RAF preparations.

³¹ The U.S. subsidiaries of some U.K. banks are subject to disclosure requirements in the United States too.

Box 1. Resolvability Assessment Framework (RAF)

The RAF builds on the U.K. special resolution regime (SRR) that is set out in the [Banking Act 2009](#) and on the Bank of England's (BOE) '[Approach to Resolution](#),' which is elaborated upon in the [SRR Code of Practice](#) and the [HMT-BOE memorandum of understanding on resolution planning and financial crisis management](#).

The RAF applies to firms with a bail-in or transfer to private sector purchaser resolution strategy, or where 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 United Kingdom.

Firms are expected to achieve **three resolvability outcomes**:

- adequate financial resources for resolution;
- continuity of business through resolution and subsequent restructuring; and
- effective coordination and communication within the firm and with the authorities and market to ensure orderly resolution and restructuring.

The BOE and the PRA have issued **complementary guidance for firms**:

[Reporting & Disclosure](#). Firms must assess their preparations for resolution, submit a report of their assessment, and publish a summary of their report.

[Funding in Resolution](#). This outlines the funding capabilities that firms should have to ensure their resolution strategies can be successfully executed and that liquidity risks in resolution are managed.

[Minimum Requirement for own funds and Eligible Liabilities \(MREL\)](#). This sets out the relationship between the MREL and capital and leverage ratio buffers, and MREL breaches would affect the assessment whether a firm is failing, or likely to fail.

[Valuation Capabilities](#). This includes principles for the data, information, models, governance, documentation, and assurance firms must have in place to support timely and robust resolution valuations.

[Operational Continuity](#). This sets out expectations to ensure operational continuity of critical services to facilitate recovery actions, orderly resolution, and post-resolution restructuring.

[Continuity of Financial Contracts](#). This sets out the capabilities for addressing early termination risks upon entry into resolution.

[Access to Financial Market Infrastructures](#). This sets out the capabilities to facilitate continued access to clearing, payment, settlement, and custody services to keep functioning in resolution.

[Restructuring Planning](#). This sets out capabilities and arrangements to support restructuring in the context of resolution.

[Management, Governance, and Communication](#). This sets out capabilities and arrangements to ensure effective management, governance, and communication in resolution.

28. How the authorities hold firms accountable for their resolvability will determine how this may affect the RAF's efficacy. Together with the major U.K. firms' disclosures about their resolvability capabilities, BOE too will make pertinent public statements. The form of these statements is being developed. Considering BOE's [public commitment to Parliament](#) to make U.K. major firms resolvable by 2022, one could understand a certain degree of pressure to make positive statements about firms' resolvability. Therefore, it is encouraging that public communications of senior BOE officials emphasize that resolvability is not a binary matter and that it is a continuous obligation on which the firms and the authorities will steadily progress. This message should continue to steer BOE's communications on the matter. Based on its resolvability assessments, the BOE will also need to decide if and how to use its power to direct firms to address substantive

impediments to their resolvability—a power it has not yet used.³² It will be important to ensure that the BOE undertakes the resolvability assessments with a high degree of independence. The assessment will be based on regular supervisory information and particularly the firms' RAF reporting, which the BOE should scrutinize to ensure the reliability of the reporting.

RESOLUTION FUNDING AND DEPOSIT INSURANCE

A. Firms' Loss-Absorbing Capacity

29. Firms' have made good progress in building MREL. While MREL applies to all firms, 18 U.K.-headquartered firms are required to hold MREL above capital requirements: 8 SIBs; and 10 mid-tier firms.³³ Their loss-absorbing capacity (LAC) targets, comprising MREL and buffers, depend on the type of firm.³⁴ The buffers include a capital conservation buffer, the GSIB buffers set by the Financial Stability Board (FSB), and a PRA-determined systemic-risk buffer. MREL requirements depend on the resolution strategy, with the BOE having the option to adjust downwards a firm's end-state MREL in case of a partial transfer resolution strategy—the BOE has not made use of this option. All U.K. SIBs meet their end-state MREL targets, and all firms (almost) meet their LAC targets. The U.K. authorities noted that neither Brexit, nor the Covid-19 outbreak materially affected the firms' ability to issue MREL-eligible instruments—challenges have been idiosyncratic rather than sector wide. In July 2021, the BOE announced that it is considering giving new and growing firms that project themselves to growing beyond £15bn total assets six instead of three years to meet their end-state MREL target.³⁵ Firm-specific MREL and LAC targets should continue to be a function of firms' resolution strategies. In setting timelines for meeting end-state targets, BOE should consider the challenges of executing resolution—particularly bail-in—with insufficient MREL/LAC.

³² See '[The Bank of England's power to direct institutions to address impediments to resolvability](#)' (December 2015). The PRA too may take action to improve firms' resolvability, building, among others, on the PRA's [Fundamental Rule 8](#), requiring firms to prepare for their own orderly resolution.

³³ Mid-tier firms: Coventry Building Society, Metro Bank, Monzo Bank, Leeds Building Society, OSB Group, Skipton Building Society, Starling Bank, Tesco Personal Finance, The Co-operative Bank, Yorkshire Building Society.

³⁴ <https://www.bankofengland.co.uk/-/media/boe/files/financial-stability/resolution/interim-and-end-state-mrel-2021.pdf>

³⁵ The [revised MREL policy was published](#) after this note's cut-off date and was therefore not assessed.

30. The effectiveness of the bail-in resolution strategy depends in part on certain MREL legacy contracts and the ownership by retail investors. Of the 18 firms, 15 are subject to MREL requirements for a bail-in resolution strategy. Therefore, it is critical that the bail-in tool can be effectively executed. This is affected by several developments.

- In July 2021, [BOE published an operational guidance note on how the bail-in tool would be executed](#). The note complements other published policies that also touch upon bail-in, including the BOE's Approach to Resolution and Assessing Resolvability. Further clarifications will be critical in two areas: (i) the use of the bail-in tool in combination with other stabilization tools, particularly the transfer tool—the guidance discusses bail-in on a standalone basis; and (ii) the cross-border application of bail-in, which will require extensive coordination with host authorities and crisis management groups (CMGs).
- Legacy contracts governed by non-U.K. law, without contractual clauses for recognition of U.K. statutory write-down and conversion powers—which did not exist during the global financial crisis—are a challenge to the use of the bail-in power. The BOE considers this in its resolvability assessments.
- Retail holdings of MREL-eligible instruments too could hamper bail-in because this could increase contagion risk.³⁶ The U.K. authorities estimate that retail investors account for a very small share of the market for these instruments. Nonetheless, the FCA intends to restrict the sale of subordinated MREL-eligible liabilities to retail investors. The FSAP welcomes this intention.
- While BOE policies consider scaling internal MREL in the 75–90 percent range, under legacy EU rules, material U.K. subsidiaries of foreign GSIBs are required to meet MREL equal to 90 percent of the higher of 16 percent risk weighted assets or 6 percent of the total exposure measures. To increase BOE's flexibility, this legacy EU rule should be removed from U.K. law.

B. The Bank Levy

31. Through a bank levy, large U.K. financial firms provide a funding source for resolution measures. In 2011, the United Kingdom introduced the bank levy because, as noted in the [June 2010 Budget](#), “banks should make a fair contribution in respect of the potential risks they pose to the U.K. financial system and wider economy.” The levy is paid by (groups of) banks and building societies with total equity and liabilities exceeding £20 billion. As of the 2020/21 financial year, since its introduction, the U.K. government collected £25.5 billion through the bank levy.³⁷ As clarified in the SRR Code of Practice (section 11.8), the bank levy is partly used toward ex ante funding for resolution with a target level for 2024 of one percent of covered deposits. The government can make amounts up to and, if necessary, more than this level available at BOE's request.

³⁶ Cross-holdings of MREL instruments between firms subject to MREL requirements, which could also hamper effective bail-in strategies, are disincentivized by the U.K. capital requirement rules.

³⁷ [UK government budgets](#) during 2011–2021, including ‘current receipt outturns’ for the bank levy.

C. Deposit Insurance

32. The FSCS has access to several funding sources for depositor payouts or the transfer of deposits to another firm: (i) annual and interim industry levies based on previous and anticipated costs for deposit-taker failures; (ii) a revolving commercial credit facility, which is available within days for short-term needs; and (iii) borrowing from—and at the sole discretion of—HMT, including via the NLF, if the PRA determines that the FSCS is unable to raise sufficient extraordinary levies and has exhausted all other funding sources. Recognizing that financial assistance from the government may be needed on short notice, a protocol between HMT and the FSCS documents their shared understanding on the operational modalities for such assistance; this is supported by a draft loan agreement. Any FSCS borrowing from either the private sector or from the government is repaid through ex post levies on firms in the deposit levy class and recoveries in insolvency proceedings.

33. The financial autonomy of the FSCS is limited. It collects levies on a pay-as-you-go basis—currently [capped for the deposit levy class by the PRA](#) at £1.5 billion a year³⁸—and it has a small commercial borrowing facility. Either would be insufficient if any of the largest 15 non-SIBs would fail, requiring HMT/NLF support. Moreover, if some of these non-SIBs were to fail, it is highly likely that collecting extraordinary or ex post levies would exacerbate financial system risks (and the failing banks would escape paying the levies, which, arguably, is an inherent weakness of ex post funded DIFs). The FSCS' should have sufficient funds under its direct control and investment, increasing its financial autonomy and reducing its dependency on borrowing from HMT or banks. To achieve this, the authorities should build up a prefunded deposit insurance fund for FSCS with an appropriate target level—e.g., payouts for the concurrent failure of the largest 2–4 non-SIBs without a resolution strategy using the stabilization powers—and levy assessments enabling the FSCS to reach the target level within a reasonable time. An expedited timeline would be possible with start-up funding, using, for example, the resources raised from the industry with the bank levy.

D. Liquidity in Resolution

34. Since 2017, a flexible RLF complements BOE's Sterling Monetary Framework (SMF) and ELA arrangements. The RLF applies to firms when these are in a BOE-led resolution—but not to firms that are subject to insolvency or administration. Liquidity will first need to come from firms as per the [RAF expectations on funding capabilities](#). The SMF remains available to firms that meet the qualification requirements. ELA can be extended to firms before or after resolution and pre-resolution ELA could be rolled into the RLF. The RLF applies to a wide range of participants, including foreign branches and subsidiaries in case of a BOE-led resolution, and may be secured against a wide range of collateral. This foregoing makes it highly likely that the BOE would request an indemnity from HMT for RLF lending. As set out in the 2018 MOU on the ['Financial Relationship Between HM Treasury and the Bank of England'](#), HMT would assess this request on a case-by-case basis. After the first round of RAF assessments, which may clarify the firms' further information needs, the BOE could provide more detail on the RLF when it updates its [Approach to Resolution](#).

³⁸ The PRA also sets the FSCS' [management expenses levy limit](#).

INTERNATIONAL COOPERATION

A. Contributing to a Global Public Good

35. The U.K. authorities actively help develop international standards and good practices on resolution and crisis management. They contribute to the FSB Resolution Steering Group and its cross-border crisis management subgroups for banks, insurers, and financial market infrastructures. Importantly, the BOE leads the FSB review of the practices in CMGs and to identify options for further cooperation through CMGs.³⁹ The BOE's [Centre for Central Banking Studies](#) provides another platform for sharing the U.K. authorities' expertise on recovery and resolution planning with international financial authorities.

36. The U.K. authorities work closely on resolution and crisis management with their colleagues in the United States and the European Union—the three jurisdictions are home to 19 of the 30 GSIBs. Since 2016, the Trilateral Principal Level Exercise (TPLE) regularly brings together the principals, senior executives, and staff of the authorities that are responsible for GSIB resolution in the U.K., U.S., and EU (that is, the resolution and supervisory agencies, the central banks, and the finance ministries). Following the United Kingdom's withdrawal from the European Union, the U.K. authorities concluded technical arrangements with EU authorities for post-Brexit cooperation on bank recovery and resolution planning, resolution implementation, and crisis management.⁴⁰ The BOE also has a [5-way cooperation arrangement](#) and holds [regular principals meetings](#) with U.S. authorities on CCP resolution; similarly, it has concluded an [MOU with the European Securities and Markets Authority](#), including on CCP contingency planning and crisis management, which could be used to set up regular principals meetings with EU authorities.

37. The U.K. authorities add value to the resolution planning and potentially the resolution implementation for many global systemically important financial institutions. The BOE and the PRA chair several CMGs and are members of many more. The BOE chairs the CMGs for three GSIBs (Barclays, Standard Chartered, HSBC) and for two CCPs (Ice Clear Europe, LCH); the PRA chairs the CMGs for all its internationally active insurers (Aviva, Legal & General Group, British United Provident Association Limited, RSA Insurance Group). The BOE and the PRA are members of the CMGs for 18 GSIBs; BOE is a member in the CMGs for eight CCPs,⁴¹ and it is an observer in the resolution colleges for six EU banks. The U.K. authorities participate in a regional GSIB CMG that is organized by the Hong Kong authorities. Progress on the GSIBs' progress in the CMGs is shared with the FSB through its annual resolvability assessment process.

³⁹ See the FSB [Good Practices for Crisis Management Groups](#) (November 2021).

⁴⁰ A [cooperation agreement](#) between the BOE and the EU Single Resolution Board on resolution planning and implementation; an [MOU](#) between the PRA, the FCA, and the European Central Bank, including on recovery planning and crisis management; and a [framework cooperation arrangement](#) with the European Banking Authority, including on bank resolution and crisis management.

⁴¹ CME, EuroCCP, Ice Clear Credit, LCH SA Six x-clear; BME Clearing, Eurex Clearing, Options Clearing Corporation

B. Recognizing and Supporting Foreign Resolution Actions

38. The United Kingdom has a statutory regime for recognizing foreign resolution actions.

The Banking Act 2009 ([Part 1, Chapter 6](#)) authorizes the BOE—with HMT approval—to recognize or to refuse, wholly or partially, a foreign resolution action.⁴² Recognition may be granted if the foreign action's objectives and anticipated results are broadly comparable to those under the U.K. SRR; recognition can only be refused when certain conditions are met, including an adverse effect on U.K. financial stability, material fiscal implications for the United Kingdom, or discrimination against creditors located or payable in the United Kingdom. Recognition decisions must be made public.

39. In May 2021, the U.K. authorities applied the recognition regime for the first time—perhaps a global first. In 2016, PrivatBank was subject to bail-in by the National Bank of Ukraine; the National Bank of Ukraine subsequently submitted a request for recognition of this resolution to the BOE relating to notes (loans) issued by a U.K. special purpose vehicle that were governed by English law. In May 2021, the [BOE](#), with [HMT approval](#), recognized the bail-in decisions for these loans. Whilst considering its decision, the BOE kept relevant stakeholders, including the National Bank of Ukraine and creditors' representatives, informed about the recognition process throughout.

40. Based on its experiences, the BOE intends to publish guidance on the U.K. recognition regime.⁴³ The guidance will cover at a high-level pre-resolution cross-border coordination, the U.K. decision-making process within and between the BOE and HMT, and the legislative grounds on which recognition is partially or fully granted or refused. The lessons learned from the experience gained through recognition of English-law loans bailed-in during PrivatBank's resolution are being used for the U.K. authorities' crisis readiness projects with play and runbooks, communication planning, etc. The recognition of said Ukrainian bail-in decision and the upcoming guidance may inform how other countries will give effect to foreign resolution actions. The guidance is also an opportunity to clarify any relevant interaction between recognition of foreign resolution actions and the recognition of foreign insolvency proceedings concerning banks.⁴⁴

FINANCIAL CRISIS PREPAREDNESS

A. What Are the Agencies Doing to Prepare for a Financial Crisis?

41. The BOE is progressing well with implementing the recommendations from its Independent Evaluation Office (IEO). On a request from the BOE Court of Directors, [the IEO evaluated the BOE resolution arrangements in 2018](#), shortly after the BOE committed to making all major U.K. banks resolvable by 2022. The IEO made nine recommendations around three themes

⁴² The BOE can also give effect to foreign resolution measures through supporting actions, including inaction (by withholding triggering resolution), supervisory approvals, and the use of its resolution powers.

⁴³ The [recognition of third-country resolution actions guidance](#) was published after this note's cut-off date and was therefore not assessed.

⁴⁴ Greensill Bank AG, [2021] EWHC 966 (Ch). The FSAP note on 'Implications of Brexit on Cross-Border Financial Services' discusses the issue more comprehensively.

(Box 2): the roadmap to 2022; internal cooperation; and preparations for resolution. The [BOE welcomed the IEO appraisal](#) and has made good progress in following up on the recommendations. After a delay due to the COVID outbreak, the IEO plans to report in 2022 to the Court of Directors on the implementation of its recommendations. Considering the benefits of independent substantive evaluations, a similar evaluation should be undertaken for the crisis readiness of HMT, the FCA, and the FSCS. This would complement the existing accountability arrangements through internal audit and parliamentary scrutiny that look at the agencies from another prism—internal controls and politics, respectively.

Box 2. BOE Independent Evaluation Office Evaluation of the BOE’s Resolution Arrangements

BOE IEO Recommendations June 2018

1. Articulate how the institution will deliver on making the resolution framework operational.
2. Review appropriateness of the Resolution Directorate skillset as its focus shifts from policy development to implementation.
3. Consider whether the introduction of the gone-concern regime has been appropriately reflected in PRA supervisory strategy.
4. With due regard to the legal framework, consider mechanisms to enable greater and timely information sharing and cross-Bank collaboration on resolution issues.
5. Review governance arrangements for business-as-usual resolution matters.
6. Formalize governance arrangements for heightened contingency planning.
7. Set out a strategy internally on how the Bank would deal with a fast death of a firm.
8. Review the skills needed for heightened contingency planning and agree a framework for the rapid mobilization of resources.
9. Agree a comprehensive schedule of exercises to test the Bank’s operational preparedness for a resolution.

Source: <https://www.bankofengland.co.uk/-/media/boe/files/independent-evaluation-office/2018/ieo-report-resolution-june-2018.pdf>

42. The authorities are pursuing a four-pronged approach to maintain contingency planning and crisis management expertise.

- *Team Rotation.* To manage key person risks, maintain a deeper pool of expertise, and support personal well-being, staff rotate into contingency planning teams. Furthermore, the teams can draw on internal and external reservists lists for surge staffing or specialist expertise.
- *Training Programs.* Ongoing training and induction procedures also cover a wide range of crisis management topics. Mutual training programs are in place for HMT-BOE and HMT-FCA staff. BOE RD is running a Masterclass with senior-level presenters.
- *Testing and Exercising.* All U.K. authorities pursue an active testing and exercising schedule, internally, domestically, and internationally. They recognize that regular testing is more valuable than one-off testing, but the size, complexity, and senior engagement required for international tests and exercises make it harder to maintain the regularity of international testing. Internal and domestic testing and exercises are well-embedded and run regularly.

- *Documenting Operations.* Playbooks, runbooks, and manuals aim to support senior officials and working-level staff in delivering effective resolution. The documentation is continuously informed by lessons learned from testing, exercising, and contingency planning.

43. While contingency planning can be a serious pressure on resources, it is an invaluable opportunity for testing and enhancing crisis readiness, which the authorities fully utilize.

Contingency planning in recent years has required reprioritization of regular work. On the plus side, contingency planning has helped improve mutual understanding between the authorities for their respective approaches and considerations, increased their ability to assess geo-political risks and to set up bridge banks, and highlighted the importance of agility of resourcing and decision-making. Building on this experience, the authorities should continue to prepare for fast-fail resolutions and concurrent failures of multiple major and mid-tier firms.

The TPLE is a key platform for cross-border cooperation for the resolution of a GSIB. The [2020 crisis simulation exercise](#) (CSE) took place over several days, reflecting several months of a ‘real-life’ crisis, covering the process from early recovery measures through post-resolution actions. Following the exercise, the authorities from the three jurisdictions took stock of the lessons learned, informing further enhancements to crisis preparedness. Although the TPLE was established several years ago, and the three jurisdictions have a long history of cooperation, they continue to develop a shared understanding of international standards and key concepts and enhance cooperation and coordination for GSIB resolution. Considering the TPLE’s experience and building on the work in CMGs, the U.K. authorities should seek to develop similar approaches with other key jurisdictions, e.g., starting with key authorities in Asia.

B. How Have the Agencies Organized Themselves for Financial Crisis Management?

44. The BOE and HMT are at the heart of the bank resolution and crisis management framework. The Financial Services Act 2012 acknowledges this, requiring an MOU between the BOE and HMT on crisis management, which now also recognizes the FCA and the FSCS without making them signatories. The effect of relevant statutory provisions and the MOU is to assign clear responsibilities to each of the authorities. Both the BOE and HMT have revamped their crisis management governance structures.

45. HMT’s PCM Project has expanded considerably since its inception in 2012. The PCM Project is overseen by the Director of Financial Stability. The Project aims to reform HMT’s approach to financial crisis management and ensure that HMT is ready to effectively respond to future financial stability events. Under this project, HMT has developed a suite of manuals and resources to support the deployment of tools in a crisis and mitigate any risks of diminishing experience. Regular training and exercising help maintain familiarity with the resources and processes and build resilience across HMT. The PCM Project also helps deliver crisis readiness for CCPs and insurers.

46. The BOE’s HCF now includes a Heightened Contingency Planning Escalation Framework. The HCF Project focuses entirely on resolution; it is owned and delivered by the

Resolution Directorate. The Project clarifies for each resolution strategy (e.g., bail-in, bridge bank) the division of labor within the BOE and includes a preparedness monitoring tool. The Project aims to reduce execution risk, clarify BOE's readiness status, and improve coordination and support governance. The Escalation Framework is part of the latter goal, supporting senior leadership by enabling a common understanding of the escalation status, providing an indicative assessment of resolution actions at different stages based on the proximity and probability of resolution triggers, and facilitating decision-making by providing a top-down view of risks and mitigating factors.

47. Interagency engagement is organized around the ARF and the Cross-Authority Resolution Group.⁴⁵

- *Authorities' Response Framework.* This is a mechanism for the U.K. authorities to coordinate a collective response to operational incidents or threats impacting the financial sector. The ARF is regularly trained, tested, and reviewed, both internally and jointly between the BOE, HMT, and the FCA—but other governance entities could be involved too. While the ARF is 'owned' by HMT, it is jointly maintained. Most recently, the ARF was fully activated at all levels of escalation to coordinate the authorities' response to the COVID-19 outbreak.
- *Cross-Authority Resolution Group (CARG).* In addition to the five financial safety net members, the CARG also includes the Debt Management Office. The CARG supports regular working-level engagement on BAU resolution planning and financial crisis management. The work has resulted in shared materials setting out how authorities would respond and deliver certain resolution strategies. Due to the COVID-19 outbreak, the CARG work was put on hold, then restarted in late 2021, focusing on execution plans for major banks and cross-agency runbooks for bank insolvency, bridge banks, and bail-in.

⁴⁵ The industry is organized around the Sector Response Framework and the Cross Market Business Continuity Group.

Appendix I. Status Update 2016 FSAP Recommendations

2016 Recommendations <i>Source: the 2016 technical note (Table 1) and the Financial System Stability Assessment report.</i>	2021 Implementation Status <i>Of the 14 recommendations, 8 were implemented, 2 were partially implemented, 2 will be implemented in the near term.</i>
<p>1. Work with international partners to develop an effective resolution regime for insurance firms that could be systemically significant at the point of failure (HMT, BOE, PRA)</p>	<p>Not Yet Implemented. No special resolution regime was introduced for the U.K. insurance sector. Mid-2021, HMT undertook a public consultation on amending the insolvency regime for insurers; HMT and the BOE also intend to propose an SRR for insurers. In the meanwhile, the PRA, together with the BOE, is developing an RRP approach for insurance companies, complementing firms' duty under the PRA's Fundamental Rule 8, requiring firms to prepare for their own orderly resolution.</p> <p>The BOE was closely involved in developing (i) the EIOPA Opinion on the Harmonisation of Recovery and Resolution Frameworks for (Re) Insurers (2017), (ii) the FSB KA Assessment Methodology for the Insurance Sector (2020), and (iii) the IAIS guidance for recovery planning (2019), and for resolution powers and planning (2020).</p>
<p>2. Provide the BOE with an explicit general power in the Banking Act 2009 to depart from pari-passu treatment in resolution, where justified by financial stability interest (HMT, BOE)</p>	<p>Not Yet Implemented. An explicit general power was not introduced in the Banking Act 2009 to depart from the pari passu principle in resolution.</p> <p>Section 12AA (4) of the Banking Act 2009 requires that the bail-in power be used consistent with this principle; Section 48B offers an exemption under certain circumstances (including, for example, widespread contagion risk).</p> <p>The U.K. authorities have provided that an implicit exemption is available for the other resolution powers, because no pari passu requirement exists for other resolution powers like the one in Section 12AA (4) of the Banking Act 2009. The U.K. authorities will consider updating the SRR Code of Practice to reflect this.</p>
<p>3. Include the FCA and the FSCS in the Crisis Management MoU, as well as in the periodic high-level BOE/HMT discussions on contingency planning (HMT, BOE, Financial Conduct Authority (FCA), FSCS)</p>	<p>Partially Implemented. The FCA and the FSCS are not signatories to this MOU—or any similar MOU on firm failures including all members of the U.K. financial safety net.</p> <p>Section 47 of this MOU does now reference the FCA and the FSCS, noting that they may need to be involved in the monitoring and assessment of risks, or the planning and implementation of financial sector interventions.</p> <p>This MOU is complemented with other bilateral crisis management and resolution MOUs. When needed, the FCA and the FSCS are included in discussions on contingency planning.</p>

2016 Recommendations <i>Source: the 2016 technical note (Table 1) and the Financial System Stability Assessment report.</i>	2021 Implementation Status <i>Of the 14 recommendations, 8 were implemented, 2 were partially implemented, 2 will be implemented in the near term.</i>
<p>4. Recalibrate the supervisory approach to increase the monitoring of medium-sized banks in the run-up to the full implementation of MREL (PRA)</p>	<p>Implemented. Although there is room for improvements, the intensity of supervision on non-systemic firms has intensified.</p> <p>Before the COVID-19 outbreak, the PRA undertook several thematic reviews (including for fast growing firms) and stress testing to identify the most vulnerable firms.</p> <p>In response to the COVID shock, the PRA set up a monitoring approach and developed escalation triggers. Firms on the PRA watchlist and the heightened monitoring list have been prioritized for recovery and resolution planning.</p> <p>Moreover, medium-size firms with a bail-in or partial transfer resolution strategy, are required to meet the RAF expectations.</p>
<p>5. Revise proposed amendments to the BA to clarify the relationship between the Temporary Manager and shareholders of a firm, in line with company law (HMT, PRA)</p>	<p>Implemented. This is now clarified in the Financial Services and Markets Act, Section 71C et seq.</p>
<p>6. Finalize and adopt the amendments to the contractual bail-in requirement (HMT, BOE)</p>	<p>Implemented. This is now supported by the Banking Act 2009, Section 3A(4)–(5); the PRA Rulebook, chapter on 'Contractual Recognition of Bail-In;' FCA Handbook, chapter on 'Contractual recognition of bail-in.'</p>
<p>7. Finalize and adopt the amendments to the BA to empower BOE to independently resolve U.K. branches of non-EEA firms where appropriate (HMT, BOE)</p>	<p>Implemented. This is now legislated in the Banking Act 2009, Section 89JA ('Resolution of U.K. branches of third-country institutions'). With the U.K. withdrawal from the EU, this section now also applies to firms from the European Economic Area.</p>
<p>8. Eliminate less favorable treatment provided to deposits held with third-country branches of U.K. banks, to the extent legally feasible, given provisions of the BRRD (HMT, BOE)</p>	<p>Not Implemented. The U.K. creditor hierarchy for insolvency and stabilization options continues to treat deposits held through third-country branches of U.K. banks less favorably compared to deposits held in the United Kingdom (see Schedule 6 of the Insolvency Act 1986). This is inconsistent with KA7.4, which prescribes that national laws and regulations should not discriminate against creditors based on the <u>location</u> of their claim or the jurisdiction where it is payable.</p>
<p>9. Establish an approach for engaging with non-CMG hosts where U.K. banks and CCPs have a systemic presence, in line with FSB guidance (BOE)</p>	<p>Partially Implemented. There is no regular (e.g., annual) process in place to identify—and engage with—non-CMG host jurisdictions where U.K. GSIBs have a systemic presence. The U.K. authorities do engage with host authorities that are not members of the global CMGs through (i) a regional CMG in Asia for one U.K. GSIB, (ii) regional and non-core supervisory colleges, and (iii) SRB-led resolution colleges for major EU banks; the BOE also continues to engage with EU NRAs that used to be members of U.K.-led colleges prior to Brexit. The</p>

2016 Recommendations <i>Source: the 2016 technical note (Table 1) and the Financial System Stability Assessment report.</i>	2021 Implementation Status <i>Of the 14 recommendations, 8 were implemented, 2 were partially implemented, 2 will be implemented in the near term.</i>
	<p>BOE monitors U.K. GSIBs' global operations to determine whether their CMGs' composition should be adjusted, which has happened in Asia for one of the GSIBs.</p> <p>For systemic CCPs, the CPMI-IOSCO 'SI>1' process helps the U.K. authorities identify host jurisdictions where the two U.K. global systemically important CCPs have a systemic presence. Over three-quarters of these jurisdictions are members of the CCPs' CMGs; all jurisdictions are represented at the FSB fmiCBCM, which provides a platform for the authorities to engage with non-CMG jurisdictions.</p>
<p>10. Build on current arrangements to develop operational principles for funding of firms in resolution (HMT, BOE, FSCS)</p>	<p>Implemented. In 2017, the U.K. authorities set up a flexible Resolution Liquidity Framework for banks, building societies, and investment firms. The RLF offers liquidity support to these entities or their holding company in a BOE-led resolution. The RLF complements the existing Sterling Monetary Framework facilities and Emergency Liquidity Assistance, which remain available to firms before and after resolution, provided the firms qualify and meet the pertinent requirements.</p>
<p>11. Update the crisis management MoU to reflect the common understanding on the use of the resolution fund (HMT, BOE, FSCS)</p>	<p>Implemented. HMT has sole responsibility for decisions on whether and how to use public funds in resolution. The MOU details the interactions between BOE and HMT on the use of public funds.</p>
<p>12. Clarify the circumstances in which an indemnity would be needed to deliver ELA (HMT, BOE)</p>	<p>Implemented. Section 9 of the Crisis Management MOU between HMT and BOE notes that "The Treasury would consider any request by the Bank for an indemnity on a case-by-case basis."</p> <p>Section 9 of the MOU on the 'Financial Relationship Between HM Treasury and the Bank of England' sets out the mutual understanding between HMT and BOE on the types of operation that would be backed by the BOE's own capital, and the types of operation for which BOE may request an indemnity from the Treasury. As alluded to in the section, further details on the operation of the capital principles will be agreed separately between the BOE and HMT.</p>
<p>13. Introduce risk-based contributions (PRA, FSCS) and update the lending protocol between HMT and the FSCS to reflect the new target level (HMT, FSCS)</p>	<p>Implemented. For deposits, risk-based levies were introduced. The lending protocol was updated.</p>

2016 Recommendations <i>Source: the 2016 technical note (Table 1) and the Financial System Stability Assessment report.</i>	2021 Implementation Status <i>Of the 14 recommendations, 8 were implemented, 2 were partially implemented, 2 will be implemented in the near term.</i>
14. Re-examine the appropriateness of an ex-ante deposit insurance fund with a target level adequate for the U.K. banking system (HMT)	Not Implemented. The U.K. authorities do not intend to put in place a fully prefunded deposit insurance fund that is managed by the FSCS.