



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Baroness Noakes
House of Lords
London
SW1A 0PW

19 September 2024

Dear Baroness Noakes,

Thank you for your contribution to the Committee Stage debate of the Bank Resolution (Recapitalisation) Bill on 5 and 10 September 2024. During those debates, you raised a number of questions on which I said I would write to you. Alongside this letter, I have attached an annex that sets out the worked examples that you and others requested at Committee Stage, which has been developed with the assistance of the Bank of England.

First, you asked whether there is any limit to the amount that the Financial Services Compensation Scheme (FSCS) can borrow from the Treasury and then levy the sector for. Within any given year, the FSCS can levy the banking sector up to the amount that the PRA deems affordable – currently £1.5 billion per year. If the FSCS is required to provide more than this, it can borrow from the National Loans Fund via the Treasury. Any levies to repay lending would also continue to be subject to the PRA's assessment of affordability. This funding approach aims to ensure that levies imposed on the banking sector are proportionate.

Second, you raised a question as to whether section 5 of the Banking Act requires the Treasury to include matters relating to the Bill in the Code of Practice. I accept the point that you made that section 5 does not explicitly require the Treasury to update the Code of Practice to specifically include matters relating to the Bill, since section 5 only requires the Code of Practice to contain content related to use of the stabilisation powers, and will reflect the point that you made in that update. The government is committed to updating the Code of Practice to reflect the passing of the Bill.

Finally, you noted that, whilst instruments exercising resolution powers must be laid in Parliament, these may not refer to the specific use of the mechanism and would therefore not notify Parliament as to the mechanism's use.

In practice, the government expects that the Bank of England would operationalise the new mechanism through the power granted by clause 4(4) of the Bill. This clause gives the Bank of England the explicit power to require the issuance of securities by the firm in resolution where the FSCS has made a recapitalisation payment. The Bank of England would then use the funds provided by the FSCS to pay for these shares, thereby recapitalising the firm. The power granted by clause 4(4) of the Bill would be exercised through an instrument which would be laid before Parliament, signalling that the recapitalisation mechanism had been used. I should clarify that this would not be the case in situations where the Bank of England had not used the power granted by clause 4(4).

As a general point, the government expects that use of the new mechanism would be publicly known promptly after its use and that a public announcement would provide details on the extent of funds used as this detail is likely to help stabilise the failed firm. More broadly the Bank of England is subject to a number of communication and notification requirements when it exercises stabilisation powers. However, I do accept that such an announcement would not constitute a formal notification to Parliament of the mechanism's use.

I hope this explanation is helpful, and I have endeavoured to ensure your questions have been answered thoroughly. I would of course be happy to meet with you for further discussion on this ahead of Report Stage, and will ask my office to arrange this. I look forward to your continued engagement on the Bill.

I am copying this letter to those who spoke in the debates and a copy will be deposited in the Library of the House. I also attach the letter I sent to Lord Eatwell in response to the questions he raised following Second Reading. A copy of this will also be deposited in the Library of the House.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Livermore', enclosed in a thin black rectangular border.

Lord Livermore

FINANCIAL SECRETARY TO THE TREASURY