



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

Baroness Vere of Norbiton
House of Lords
London
SW1A 0PW

15 October 2024

Dear Baroness Vere,

Thank you for your engagement on the Bank Resolution (Recapitalisation) Bill. I found the debates at Second Reading and Committee stage helpful and constructive, and my officials and I have carefully reflected on the points raised. Since Committee, there have been some developments relating to the Bill which I thought it would be helpful to draw to your attention ahead of Report stage. These developments reflect the helpful points raised by you and other Noble Lords to date.

Bank of England consultation

The Bank of England has today published a consultation proposing a range of updates to its approach to setting Minimum Requirements for own funds and Eligible Liabilities (MREL).¹ As part of this consultation, reflecting on the introduction of the Bill as well as wider developments and feedback from industry, the Bank of England has proposed setting MREL equal to minimum capital requirements for firms that are set a transfer resolution strategy.

The Government welcomes the Bank of England's proposal. This change should help to ensure that the MREL regime is proportionate for growing firms while remaining consistent with the Government's expectation that the mechanism provided for under the Bill remains primarily intended to be used on smaller banks if they fail, when resolution action is in the public interest.

¹ <https://www.bankofengland.co.uk/paper/2024/cp/amendments-to-the-boe-approach-to-setting-a-mrel>

However, the Government appreciates the interest across Parliament about the scope of the recapitalisation mechanism introduced by the Bill. As I set out at Second Reading and Committee, the Government believes that whilst the Bill mechanism should primarily be used to support the failure of smaller firms, it is important that the Bank of England retains some flexibility to make use of the mechanism in a broader range of cases, such as where a firm has not yet met its full MREL requirement to be bailed in. If the Bank of England cannot use the mechanism on larger firms in such circumstances, this would carry wider consequences. In particular, the Bank of England may have to consider writing down liabilities beyond a firm's MREL to provide for recapitalisation, or may have to consider exposing public funds to risk – both of which could carry negative consequences for financial stability and taxpayers. The Government therefore continues to believe that the scope of the mechanism should not be limited on the face of the Bill.

I would, however, note two important points about the Bank of England's proposal which I hope will provide some reassurance to Noble Lords. The Bank of England has been clear in its consultation that in the event a firm with a transfer strategy were to fail, it would be preferable to manage such a resolution without relying on the new mechanism where it is possible to do so. It is also important to emphasise that the Government and the Bank of England are in agreement that the new mechanism is not intended from the outset to be used for firms that are set a bail-in resolution strategy and the Bank of England should not assume use of the new mechanism when setting a bail-in resolution strategy.

The Government has set its position out on these matters in a Written Ministerial Statement published today.²

The Bank of England's proposed changes require amendments to secondary legislation, so that the Bank of England can take into account the availability of the mechanism when setting MREL requirements for transfer firms. The Government has committed in the Written Ministerial Statement to exploring options to facilitate such a change and engaging with industry on these options.

Code of Practice

Secondly, I previously committed to sharing draft updates to the Special Resolution Regime Code of Practice to reflect the introduction of the Bill at the earliest opportunity. I would like to thank Your Lordships for their engagement on this issue at Second Reading and Committee. In particular, I find the argument that publication of draft updates is important in order to assist Noble Lords in their scrutiny of this Bill very persuasive. I am therefore pleased to confirm that, following the helpful comments made by Noble Lords on this matter, draft

² [Financial Services Policy Update - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/written-ministerial-statements/2017/07/20170714-fs-policy-update)

updates to the Code of Practice are today being published on GOV.UK.³ Thank you for your patience while the Government produced these drafts.

To note, these updates are intended to cover the main issues within the Bill and should be considered as draft - further changes may be needed if the Bill were to be amended during its passage through Parliament. However, while not final, it is hoped that these updates will help explain the Government's intentions on the key issues and aid Your Lordships deliberations. The Government plans to convene the Banking Liaison Panel in the coming weeks to ensure industry are fully engaged on these draft updates.

The Government intends to publish a final version of the Code once the provisions in the Bill come into force. Ahead of that, the Government will engage with the Banking Liaison Panel on any further changes made as a result of the Bill's passage in Parliament, as well as any additional or consequential changes to the Code to reflect all commitments made in the Government's consultation response.

Thank you again for all your engagement with this Bill. I look forward to discussing further at Report stage, although I am, of course, happy to meet before this if Noble Lords would find that helpful.

A copy of this letter has been sent to all Noble Lords who spoke at Committee Stage, and a copy will be deposited in the Library of the House. I have also copied this letter to the Chancellor of the Exchequer, Economic Secretary to the Treasury, Leader of the House of Lords and Lords Chief Whip.

Yours sincerely,

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

Lord Livermore

FINANCIAL SECRETARY TO THE TREASURY

³ <https://www.gov.uk/government/publications/banking-act-2009-special-resolution-regime-code-of-practice-revised-march-2017>