



BANK OF ENGLAND

Statement on operational independence of the resolution and supervision functions of the Bank of England

Background and statutory framework

This Statement has been prepared to meet the obligation of the Bank of England (the “Bank”) under Section 30C of the Bank of England Act 1998 (the “1998 Act”) to prepare and issue a statement setting out the Bank’s arrangements to ensure the discharge of its resolution functions is operationally independent of its functions exercised in its capacity as the Prudential Regulation Authority (“PRA”). The full text of Section 30C of the 1998 Act is set out in the Schedule to this Statement.

The Bank exercises both resolution and supervisory functions. In particular, the Bank is the resolution authority for the United Kingdom. All decisions made by the Bank as resolution authority are taken within the Bank’s resolution decision-making structures, including decisions in relation to the Bank’s resolution plans, resolvability assessments, its setting of a minimum requirement for own funds and eligible liabilities (“MREL”), making technical standards and statements of policy, and the exercise of the Bank’s stabilisation powers.

The Bank also includes the PRA, which is the lead supervisory authority for the United Kingdom with responsibility for prudential regulation. The functions of the PRA are exercised through or under the Prudential Regulation Committee (the “PRC”), which is a committee of the Bank. The PRC operates in accordance with the framework set out in 1998 Act and the Financial Services and Markets Act 2000.

The decision by Parliament to house both resolution and supervisory functions within the Bank ensures there is close coordination between the PRA and the Bank in the preparation, planning and application of resolution decisions. At the same time, it is important that those functions are exercised independently to avoid conflicts of interests and ensure that the Bank is able to exercise its functions as resolution authority without being unduly constrained or influenced by its supervisory functions.

The arrangements in the United Kingdom are consistent with Key Attribute 2.5 of the Financial Stability Board’s *Key Attributes of Effective Resolution Regimes for Financial Institutions*, which states that resolution authorities should have operational independence consistent with their statutory responsibilities. The Bank has consulted with HM Treasury before issuing this Statement. If there are material changes to the arrangements set out in this Statement, the Bank will prepare and issue a revised statement, as required by Section 30C of the 1998 Act.

The Bank's arrangements to ensure operational independence in the discharge of resolution functions

The Bank has put in place arrangements to ensure operational independence in the discharge of its resolution functions, in particular in relation to (i) governance and decision-making structures and (ii) adequate resources including dedicated resolution staff.¹

Governance and decision-making structures

The Bank's decision-making framework is guided by two principles: (i) the need to comply with legal requirements, including those for the operational independence in discharging resolution functions; and (ii) the importance of maintaining close cooperation between the supervisory and resolution functions in relation to resolution activities, in particular in accordance with the Bank's obligations regarding the exchange of information and cooperation, and with institutions receiving coordinated Bank and PRA communications on resolution matters.

The Bank's resolution decision-making structures are generally separate to the decision-making structures of other parts of the Bank and the PRA. The Deputy Governor for Markets and Banking and the Executive Director for Resolution have responsibility for resolution matters within the Bank and are advised by the Bank's Resolution Committee and the Resolution Advisory Committee respectively. Those committees have members from across the Bank and the PRA to facilitate cooperation. However, decision-making authority within the Resolution Committee and the Resolution Advisory Committee rests solely with the Deputy Governor for Markets and Banking and the Executive Director for Resolution respectively to ensure that when the Bank takes decisions as resolution authority, the decision-makers are separate from the other parts of the Bank and the PRA. The most important resolution decisions are reserved for, or may be escalated to, the Governor (who may be advised by the Bank's Deputy Governors in the Governors' Executive Committee).

The separation of the Bank's decision-making structures is also facilitated by the fact that decision-making authority for the Bank's micro-prudential, macro-prudential and monetary policy functions resides with the relevant statutory committees (which include external members), i.e. PRC, FPC and MPC respectively. In the case of the supervision of financial market infrastructure, decisions are taken by the Bank's Financial Market Infrastructure Board.

Decisions on contested resolution enforcement cases are taken by the Enforcement Decision Making Committee (EDMC). The EDMC and its members are independent from the Bank and PRA's executive management structure. The members are not employees of the Bank. The Bank has put in place a safeguard whereby any panel constituted under the EDMC will not be permitted to concurrently hear a prudential and resolution contested enforcement case.

Adequate resources including dedicated resolution staff

The Bank has a Resolution Directorate which has its own staff and is separate to other parts of the Bank and the PRA. The Resolution Directorate and its staff have operational responsibility for

¹ These arrangements were examined as part of the Bank's Independent Evaluation Office's *Evaluation of the Bank of England's Resolution Arrangements* (June 2018), which found that "structural separation [between resolution and supervisory functions] has been implemented effectively and appropriately".

discharging the Bank's responsibilities as resolution authority. Staff of the Resolution Directorate have separate reporting lines to other parts of the Bank and PRA through an immediate reporting line to the Executive Director for Resolution. The Executive Director for Resolution reports to the Deputy Governor for Markets and Banking who reports in turn to the Governor.

The Bank is required to cooperate closely and, where appropriate, share information with other authorities and other areas of the Bank. In relation to the PRA, this is achieved via regular contact and a close working relationship between Resolution Directorate and the PRA, including, for example, the use of "resolution packs" and "resolution assessments" produced by firms in accordance with the PRA's rules and which contain information to support the Bank's resolution planning and assessments of resolvability. The Bank has in place appropriate procedures in order to maintain the confidentiality of such information.

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Schedule

Relevant provisions of the Bank of England Act 1998

Section 30C (*Operational independence*)

- (1) The Bank must make arrangements to ensure that the discharge of its resolution functions (as defined by section 7D(10)) is operationally independent of the discharge of its functions as the PRA.
- (2) The Bank must prepare and issue a statement of its arrangements under subsection (1).
- (3) If there are material changes to the arrangements, it must prepare and issue a revised statement.
- (4) The Bank must consult the Treasury before issuing a statement under subsection (2) or a revised statement under subsection (3).

Section 7D(10) (*Definition of “resolution functions”*)

“resolution functions” means the Bank's functions (other than its functions as the Prudential Regulation Authority) under or by virtue of—

- (a) Parts 1 to 3, and section 233, of the Banking Act 2009,
- (b) Part 6 of the Financial Services (Banking Reform) Act 2013,
- (c) the Bank Recovery and Resolution (No. 2) Order 2014 (S.I. 2014/3348)