

Bank Recovery and Resolution

Guidance on the Bank's use of the transitional direction

Introduction

- This document provides guidance on the Bank's transitional direction in the context of the Bank Recovery and Resolution Directive (Directive (EU) No 2014/59) (BRRD) and related legislation. The Bank's transitional direction has been made under Part 7 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019.
- Firms should have regard to this guidance while the transitional relief granted under the direction is in effect. Firms should note that this guidance is non-binding in nature, that it may be amended from time-to-time and that the direction should be followed in the case of any inconsistency with this guidance.
- The transitional direction will come into effect on exit day and will apply until 30 June 2020 unless the Bank decides to change this in future.
- Any reference to an EU regulation, including to a Binding Technical Standard, is a reference to the UK version of that regulation, unless otherwise stated.
- For further details on the Bank's approach to the exercise of the transitional direction, firms should consult:
 - a) the Bank of England's Policy Statement on the amendments to financial services legislation under the European Union (Withdrawal) Act 2018 (PS 5/19); and
 - b) general guidance provided with the Bank's transitional direction.

General guidance

1. The BRRD established a framework for recovery and resolution of credit institutions and certain investment firms within the European Union. Accordingly, it envisaged resolution authorities and competent authorities being given certain tools to manage the failure of a firm. This means that firms are subject to comparatively few direct obligations in this area where the transitional direction applies.
2. This guidance document covers onshoring changes introduced by:
 - a. The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018; and
 - b. The Technical Standards (Bank Recovery and Resolution) (Amendment Etc.) (EU Exit) (No. 1) Instrument 2019.

Specific guidance

3. No transitional relief is being provided in respect to the following onshoring changes that are relevant to bank recovery and resolution:
 - a. **Stay in resolution.** Please refer to paragraph 4c of the '*PRA Rulebook: Guidance on the PRA's use of the transitional direction*'.
 - b. **Contractual recognition of bail-in.** Please refer to paragraph 4b of the '*PRA Rulebook: Guidance on the PRA's use of the transitional direction*'.

4. Readers should also refer to the following clarification that is relevant to bank recovery and resolution:
 - a. **Recovery plans and resolutions packs.** Please refer to paragraph 3b of the *'PRA Rulebook: Guidance on the PRA's use of the transitional direction'*.

Guidance on specific Binding Technical Standards

5. The BRRD is supplemented by binding technical standards made under it. A summary is provided below of how transitional relief applies to BRRD binding technical standards.

Regulation 2018/1624 (resolution planning BTS)

6. The transitional relief applies to the amendment made to Article 3(1) of the resolution planning BTS. This means that where "UK parent undertakings" are newly obliged to submit specified information solely due to this onshoring change (where before the information would have been submitted by their EEA parent), they will not need to do so for the duration of the transitional relief, i.e. fifteen months following exit day.
7. By contrast, firms should note this does not apply where a UK parent undertaking was the "Union parent undertaking" prior to the onshoring amendment. Here the obligation would not begin to apply, or apply differently, as a result of an exit instrument. In such cases, the Bank expects firms to continue submitting templates on the same basis in practice as before exit day, consistent with the principle at paragraph 8 of the Bank's transitional direction. For example, the reference to DGS membership in Annex 1, template "Z 06.00 – Deposit Insurance (DIS)" of the resolution planning BTS should be interpreted as including the FSCS. At the end of the transitional period, changes will be required to reflect the UK's withdrawal from the EU. The Bank has published further guidance on its website concerning these changes.¹

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¹ For more information, please refer to the *'Interpretive guidance in relation to Commission Implementing Regulation (EU) 2018/1624 on information for resolution planning'*.