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Bank of England finalises its revised MREL policy

Background

Original proposals

The Bank of England (the "**Bank**"), as resolution authority, published a consultation paper on 15 October 2024 (the "**CP**") on amending its approach to setting a minimum requirement for own funds and eligible liabilities ("**MREL**"). The CP proposals were grouped around three themes: (i) restating, with modifications, certain UK Capital Requirements Regulation ("**UK CRR**") total loss-absorbing capacity ("**TLAC**") provisions in the Bank's MREL statement of policy (the "**MREL SoP**") and other related changes; (ii) updates to the Bank's indicative thresholds for setting a stabilisation power preferred resolution strategy; and (iii) revisions to reflect findings from the Resolvability Assessment Framework ("**RAF**") and lessons from policy implementation. For more detail on the original proposals, please read "Consolidation and Clarity: A Closer Look at the Bank of England's Revised MREL Approach | Linklaters".

The Bank's consultation in respect of the CP ran from 15 October 2024 to 24 January 2025.

On 15 July 2025, the Bank published its final policy statement on MREL having considered 26 written responses to the CP, and other market feedback delivered orally, for example at roundtables and supervisory meetings with firms.

In this briefing, we consider the main changes made in the revised MREL SoP, as compared to the original proposals in the CP.

Developments

A number of other developments relating to the UK resolution regime progressed during the consultation period. Notably, the Bank Resolution (Recapitalisation) Act 2025 (the "**BRRA**") was enacted on 15 May 2025, and it established an industry-funded recapitalisation payment mechanism to support bank resolution where that is in the public interest. The BRRA expands the FSCS's functions to include making recapitalisation payments, where required to do so by the Bank acting as resolution authority, and levying firms to recoup those payments.[1]

1 To enable the FSCS to fulfil these new functions, the PRA, as required by the Financial Services and Markets Act 2000 (FSMA 2000), has made certain changes to the rules governing the operation of the FSCS which came into effect on 15 July 2025.

Final policy

The Bank has published its final policy which addresses market feedback provided in response to the CP, and is intended to be proportionate and aligned with international standards. The new policy will take effect from 1 January 2026.

Key changes

UK CRR TLAC provisions and related changes

> It remains the case that the framework will be simplified by the revocation of UK CRR TLAC provisions and consolidation of some of these provisions in the MREL SoP.

MREL asset threshold – indexation

> In the CP, the Bank had proposed to increase the total assets indicative threshold for a bail-in strategy from £15bn–£25bn to £20bn–£30bn to account for recent higher nominal UK economic growth. This indexation of the threshold was informed by nominal growth over the period from 2022 to end-2023.

> Taking into account responses suggesting that the indexation period should be increased to include the period from when the thresholds were first set in 2016 to a date later than end-2023, the Bank has increased the indicative thresholds range to **£25bn–£40bn**, with effect from January 2026.

> The Bank will monitor the threshold but will not update it frequently. The first such update would be due in H1 2028.

Transfer or bail-in strategy

> Firms within the revised total assets thresholds range of £25bn to £40bn may be subject to a transfer or bail-in preferred resolution strategy. Whether the preferred resolution strategy is transfer or bail-in will depend on relevant factors, including the technical feasibility of executing an orderly transfer and the potential availability of willing appropriate buyers. The nearer the firm is to the top of the £25bn–£40bn range, the more likely it is that the Bank will set a bail-in strategy, and any firms with total assets equal to or above £40bn will be subject to a bail-in strategy. Some groups may therefore become transfer strategy firms as a result of this update rather than bail-in strategy firms, which may have benefits in terms of reducing their MREL requirements (although the Bank is somewhat circumspect on this point).

- Linking this to the BRRA (and the potential use of FSCS funds to support a recapitalisation as part of resolution), the Bank clarified that firms' resolution plans must not assume the receipt of any extraordinary public financial support. The Bank will bear in mind the risk that the FSCS may be required to request a loan from the National Loans Fund if the amount it requires to recapitalise a firm through the recapitalisation payment mechanism exceeds the amount it may levy the wider industry in a given year, and the overall potential costs to the industry of use of the mechanism.

Modified insolvency or transfer strategy

- For firms with below £25bn total assets, the Bank will determine whether a modified insolvency or a transfer preferred resolution strategy is appropriate.
- The Bank still sees value in its existing indicative 40,000 to 80,000 transactional accounts threshold for the transfer strategy as it is an indicator of the potential impact from discontinuity in the provision of certain firms' banking services. The Bank notes that transactional banking is changing and will consider whether more aspects of transactional banking should be used to determine a transfer strategy as preferred resolution strategy. While this policy review work is ongoing, the Bank does not anticipate changing any firm's preferred resolution strategy from modified insolvency to transfer on the basis of the transactional accounts threshold.
- One of the lessons learned from Silicon Valley Bank UK (SVB UK) is that, in some cases, the public interest test for the use of stabilisation powers may be met for firms whose preferred resolution strategy is modified insolvency. This underlines the importance of the Bank and firms having access to the right information, available at the right time, to plan for or execute the resolution of a small firm if needed.
- The Bank does not expect to set MREL for small domestic deposit takers (SDDTs) or SDDT consolidation entities.

Transfer strategy and MREL

- In the CP, the Bank proposed that MREL requirements for firms subject to a transfer strategy would not exceed the MCR. Where additional loss absorbing capacity is required in resolution for these firms, after having written down regulatory capital, and in the absence of a purchaser willing to make a sufficient capital contribution, the recapitalisation needs will be met through the recapitalisation payment mechanism under the BRRA.
- These proposals remain unchanged. In respect of the recapitalisation mechanism under the BRRA, the Bank noted that: (a) the recapitalisation payment mechanism provides a backstop for recapitalising a failed bank upon transfer to a private sector purchaser or a Bank of England-owned bridge bank and (b) the Bank will only rely on the recapitalisation payment mechanism where it is appropriate to do so (bearing in mind that the recapitalisation payment mechanism was primarily intended for small firms, and the desirability for the purchaser to make appropriate contributions to the recapitalisation).
- Transfer strategy firms will continue to be required to meet requirements under the Resolvability Assessment Framework Statement of Policy.

Transitional arrangements

- MREL and RAF capabilities: Bail-in firms will be required to meet an end-state MREL of two times their MCR (or the international TLAC standard minima, if they are greater). The flexible glide path will continue to apply. Firms will ordinarily be notified three years ahead of coming into scope of stabilisation powers and have at least six years to meet their end-state MREL from the point at which they are set a bail-in resolution strategy, with scope for a flexible add-on of up to two years if circumstances require it.
- Transitioning to a transfer or bail-in strategy and associated requirements: Firms must notify the Bank if they forecast to exceed any of the indicative thresholds on a three-year forward-looking basis. Firms approaching the indicative thresholds, can expect to receive a periodic resolution letter, establishing a dialogue with the Bank as resolution authority. The Bank's RAF SoP applies once a preferred resolution strategy is adopted. The RAF policy documentation sets out the timeline for compliance with RAF requirements, which is generally a minimum of at least 18 months. In addition, for MREL there is ordinarily a six-year flexible glide path (mentioned above).
- Transitioning out of a transfer or bail-in strategy and associated requirements: If firms forecast to remain sustainably below one or both of the indicative thresholds then, as part of its regular assessment of a firm's preferred resolution strategy, the Bank would determine whether its preferred resolution strategy should change. If a firm's strategy were to change from bail-in to transfer or insolvency, and therefore MREL equal to MCR, this lower MREL would apply when the Bank changes the firm's MREL direction under the Banking Act (with no phase-out).
- Transitional arrangements following M&A: The Bank has adopted its proposals in the CP in respect of transitional arrangements for MREL following corporate restructurings unchanged. In the CP, the Bank had proposed further "transitional" MRELs or other adjustments if, as a result of a merger or acquisition, the preferred resolution strategy applicable to the institution changes, or if the regulatory requirements for the institution change in a way that affects its MREL or the MREL eligibility of its liabilities.

Appropriate basis for measuring MREL eligible liabilities

- The accounting value of an eligible liability instrument should be used as the basis for measuring the value that can be used to meet a firm's MREL. This may have an effect therefore for issuers who currently report MREL at nominal value.

Contractual triggers in i-MREL instruments

- In response to feedback received, the Bank has partially narrowed down the requirement to include a contractual trigger for write-down and/or conversion powers in internal MREL instruments.
- The requirement for a contractual trigger will apply to internal MREL of:
  - UK material subsidiaries and other UK institutions that are set internal MREL above minimum capital requirements; and
  - exceptionally, a non-UK material subsidiary of a UK-headquartered parent where the host authority has not published MREL-equivalent regulations or regulatory proposals. The Bank may waive this requirement if the "impracticability" exemption applies, for example if the host resolution authority will not permit the inclusion of a contractual trigger in the form required by the Bank. The "impracticability exception" which was consulted on will, therefore, be limited to that situation.

- A contractual trigger will not need to be included in internal Additional Tier 1 (AT1) and Tier 2 instruments issued prior to 1 January 2026. However, institutions will still need to consider whether the absence of a contractual trigger could create difficulties for resolution.

Notification for changes to i-MREL

- Institutions should notify the Bank, at least 15-days in advance, if they propose actively to make any material change to the form of their internal MREL resources, including any prospective cancellation or conversion to equity, that significantly reduces the amount of internal MREL ELIs.

Legal opinions

- An external legal opinion will need to be obtained at the time of issuance of any liability which is intended to be eligible as internal or external MREL, unless the issuance is a "repeat issuance".
- A "repeat issuance" is one where the "material issuance terms" relevant to MREL eligibility are "substantially the same" as those of a previous issuance where an external legal opinion as to MREL eligibility was obtained. Material issuance terms are those relating to subordination, conversion or write-down mechanism (for i-MREL), types of call options, frequency of interest payments, any feature that might be considered a barrier to recapitalisation or an incentive to redeem, investor acceleration rights or governing law.
- However, there are also limitations on a firm's ability to rely on a previous legal opinion for the purposes of the repeat issuance exemption. For issuances under EMTN programmes, both the original issuance which was opined on and the subsequent issuance need to have taken place after the most recent annual programme update. For all issuances, a previous legal opinion may only be relied on if there have been no relevant changes in the MREL eligibility criteria or legal framework since the previous issuance, and, subject to as explained above in relation to programmes, a legal opinion may only be relied on for repeat issuances during the period of two years following the date of the opinion.
- The repeat issuance exemption only applies to legal opinions on MREL eligibility. Individual external legal opinions on the effectiveness of bail-in are still required to be obtained at the time of issuance for any instrument whose terms are governed principally by non-UK law.

Implementation

There will be a single implementation date of 1 January 2026 for all proposed measures and repeals, and the revised MREL SoP will apply from 1 January 2026. HMT's related statutory instruments will also be effective on 1 January 2026.

Other publications relevant to the resolution regime

CP14/25 – Amendments to Resolution Assessment threshold and Recovery Plans review frequency

The PRA proposes to:

- raise the threshold at which firms come into scope of the Resolution Assessment Part of the PRA Rulebook on reporting and disclosure from £50bn to £100bn in retail deposits ensuring only the very largest firms are subject to the full suite of requirements, commensurate with the risks their failure would pose; and
- reduce the required frequency for Small Domestic Deposit Takers (SDDTs) and SDDT consolidation entities to review their recovery plans from at least annually to at least every two years, reducing burden and supporting better quality planning.

CP15/25 – Resolution planning: Amendments to MREL reporting

- This CP sets out proposals by the PRA to make targeted changes to MREL reporting and should be read in conjunction with the Bank's policy statement (MREL PS) and revised MREL SoP on its approach to setting MREL (analysed above).
- The proposals in this CP aim to ensure that firms only report data that are aligned with the revised MREL SoP and aim to establish a clear, consistent and consolidated MREL reporting framework. Additionally, the proposals remove firms' need to produce duplicative and obsolete MREL reporting data. Overall, these proposals would lead to reduction in the reporting burden on firms.

CP16/25 – Disclosure: resolvability resources, capital distribution constraints and the basis for firm Pillar 3 disclosure

- This CP proposes new disclosures on the resources supporting resolvability by MREL firms (i.e., those firms which are required to hold external and/or internal MREL above their minimum capital requirement (MCR)). The PRA considers that the proposed disclosures would enhance the effectiveness of market discipline, consequently supporting the PRA's primary objective of safety and soundness of firms.
- This CP also proposes:
  - a new qualitative disclosure requirement for firms subject to capital distribution constraints (CDCs) to allow for more meaningful assessment by market participants of the likely impact of those capital distribution restrictions;
  - a new disclosure requirement to increase clarity about the basis upon which firms are required to produce Pillar 3 disclosures to improve user understanding; and
  - certain clarifications to match deletions of TLAC provisions in CRR.

PS13/25 – The PRA's implementation of the Bank Resolution (Recapitalisation) Act

- The PRA finalised its policy on the changes to the FSCS regime proposed in CP4/25 in relation to the BRRA.
- As the BRRA introduces a new option to support the continuity of failing banks by recapitalisation using FSCS funds (recouped via a levy on other PRA regulated firms), an expansion of the functions of the FSCS and changes to the levy regime were required.
- No significant changes were made to the proposals in CP4/25.

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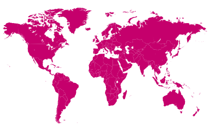

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