



A response by UK Finance to the PRA's Consultation

Depositor Protection Chapter Two –
The PRA's proposals in relation to the
Bank Resolution (Recapitalisation) Bill

April | 2025

Introduction

1. UK Finance¹ is pleased to respond to Chapter Two of the PRA's Depositor Protection [CP4/25](#) consultation paper (CP) on the updates to the PRA Rulebook needed to facilitate the implementation of proposals in the Bank Resolution (Recapitalisation) Bill (hereafter 'the Bill'). This chapter of the CP proposes to:

Amend rules to enable the FSCS to fulfil its new functions under the proposed Recapitalisation Bill legislation.

- *This would result in changes to the Deposit Guarantee Scheme statement of policy (Appendix 3); and*
- *The Depositor Protection Part of the PRA Rulebook (Appendix 4).*

2. The PRA is consulting on these changes to allow swift implementation of the Bank Recapitalisation changes when the Bill receives Royal assent. The PRA has a mandate to consult on such changes, despite them not being a PRA directive, and will not implement if the Bill is not passed.
3. We support the proposals in Chapter two of CP4/25, to align with the Bill which promotes financial stability and consumer protection. There are however areas which we consider the PRA should contemplate, in the recommendations and rationale section below.
4. These recommendations:
 - promote **regulatory consistency for all banks, supporting competition**, so that UK's financial services industry is a fair, consistent and stable economic driver,
 - maintain an **appropriate and proportionate approach to resolution and related risks**, allowing the protection of consumers funds and stability, whilst not exhausting banks' liquidity and capital.
5. We will be responding to Chapter One of the CP separately in June 2025 as in the CP.

Recommendations and rationale

Definition and listing of 'small banks'

6. The Bill [defines](#) 'small banks' or 'smaller banks' as "*the population of banks and building societies that are not required to hold the Minimum Requirement for own funds and*

¹ UK Finance is the collective voice for the banking and finance industry. Representing over 300 firms, we're a centre of trust, expertise and collaboration at the heart of financial services, championing a thriving sector and building a better society.

Eligible Liabilities (MREL) above minimum capital requirements". We recommend that the PRA adds this definition to the Depositor Protection Part of the PRA Rulebook.

7. The Bank of England (BoE) hosts a [list](#) of the UK banks and building societies which are subject to MREL requirements. However, a similar list of firms categorised as 'small banks' covered by the new Bill that are not subject to MREL requirements.
8. We suggest that in the spirit of transparency, the PRA should host a regularly updated public list of such 'small banks', indicating which are small domestic banks or subsidiaries of foreign banks.

Other firms covered by the Bill

9. In addition, s.214E (7)[1] of the Bill in refers to "investment firms" in scope of the BoE special recapitalisation measures. These firms may have a different risk profile to small deposit takers, the intended beneficiaries of the Bill. We recommend that the BoE, PRA and FCA confirm that firms engaged in trading and market making activities would not be within the scope of the Bill.
10. We recommend that the FCA also provides a list of regulated investment firms which could be in scope of the Bill. We propose that this list excludes investment firms whose activities include trading in primary financial instruments (equities, bonds, notes) and derivatives, market making, arranging IPO² or SPO³, or intermediating in any such activities and asset management. This will guard against moral hazard issues whereby some investment firms providing depositor aggregator services alongside trading and investment advisory activities could appear to be protected for the losses they may incur.
11. Both the PRA list of 'small' UK deposit takers (as in point 7 above) and the FCA's list of investment firms covered by the Bill could be included in the Glossary or defined in the Definitions section of the Depositor Protection Part of the PRA Rulebook.

Implementation date

12. Our members have indicated a preference for implementation from the start of a year, i.e. 1 January 2026, rather than the proposed date of 1 December 2025.

Inappropriate use of FSCS funds

13. Consistent with our response to HM Treasury's "Enhancing the Special Resolution Regime" consultation relating to the Bill, we recommend that the PRA Rulebook clarifies

² IPO : initial public offering

³ SPO: Secondary public offering

that the recapitalisation levy should not be used to recoup any costs incurred by the BoE, HM Treasury or any other relevant person as referred to in s. 214E(2) and (5) of the Bill in relation to litigation or redress, should these occur before, during or after a failing firm is put under the special stabilisation measures by the BoE. If this is not the case, there is a risk that, in extremis, the FSCS becomes a source of funding for litigation, vexatious or otherwise.

14. The PRA should make changes to the definition of the 'recapitalisation payment levy' in the Application and Definition section of the proposed Amendments to the Depositor Protection Part of the PRA rulebook and clarify the exclusion of such costs from the recapitalisation payment levy in section 7 Funding of the FSCS of the Deposit Guarantee Scheme statement of policy (as presented on page 40 in section 3 of the Appendices Document to the CP 4/25).
15. We appreciate the opportunity to share our members' views in UK Finance's response and would be happy to facilitate discussions as needed.
16. UK Finance is content for this response to this consultation to be recorded publicly.

Responsible Executives

✉ nala.worsfold@ukfinance.org.uk
☎ +44 (0) 7384 212633

jack.hughes@ukfinance.org.uk