

Title: Amendments to insolvency and administration rules for banks Lead department or agency: Treasury Other departments or agencies: The Rules will be formally made by the Ministry of Justice	Impact Assessment (IA)
	IA No:
	Date: 01/01/2010
	Stage: Enactment
	Source of intervention: Domestic
	Type of measure: Secondary legislation
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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The problem under consideration is how to resolve a failing bank, minimising impact on depositors and financial stability. The bank insolvency procedure (BIP) can be used to wind up a bank if it fails. It has features that assist with the protection of the bank's depositors. The bank administration procedure (BAP) is used to wind up an insolvent 'residual company' that is left over after the resolution of a failed bank using a partial transfer under the special resolution regime. The BIP and BAP have statutory Rules setting out procedure for the bank liquidator / administrator. The Insolvency Services had brought forward modifications to the underlying insolvency rules on which these rules are based, which need to be reflected in the bank rules.

What are the policy objectives and the intended effects?

The policy objective is to bring the bank rules into line with the general insolvency rules made by the Insolvency Service. This will ensure that BIP and BAP rules will be familiar to insolvency practitioners, banks and their professional advisers.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

The Treasury has considered the alternative option of not making these amendment rules. The effect of this would be that the insolvency rules for banks would be inconsistent with the general insolvency rules. On balance, the Treasury considers that it is desirable to have the rules in place.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed on an ongoing basis
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

SELECT SIGNATORY Sign-off For enactment stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:  Date: 3/9/2010

Description:

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

Description and scale of key monetised costs by 'main affected groups'

There are no significant ongoing or one-off direct costs associated with these measures.

Other key non-monetised costs by 'main affected groups'

There are no significant ongoing or one-off direct costs associated with these measures.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

It is not feasible to quantify the benefits of these amendment rules as distinct from the benefits of the benefits of the procedures as a whole.

Other key non-monetised benefits by 'main affected groups'

It is not feasible to quantify the benefits of these rules as distinct from the benefits of the procedures as a whole. Benefits for the BIP and BAP are set out in the original impact assessments. However, by minimising the differences between with the general rules and those provided for banks, these instruments will minimise resource costs for insolvency practitioners, banks and their professional advisers (for example, cost associated with familiarising themselves with the new rules).

Key assumptions/sensitivities/risks

Discount rate (%)

These rules will only be used where a bank fails, and costs and benefits will only materialise in that case. As any such costs and benefits will depend on the size and complexity of the insolvency, they are not possible to quantify in the abstract.

Impact on admin burden (AB) (£m):		Impact on policy cost savings (£m):		In scope Yes/No
New AB:	AB savings:	Policy cost savings:	Net:	

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England and Wales				
From what date will the policy be implemented?	15/09/2010				
Which organisation(s) will enforce the policy?	Treasury, Bank of England, FSA, Judiciary				
What is the annual change in enforcement cost (£m)?	N/A				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: N/A		Benefits: N/A		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro N/A	< 20 N/A	Small N/A	Medium N/A	Large N/A
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	Impact Assessment for key policy changes brought about by the project to modernise and consolidate the Insolvency Rules 1986 and other insolvency secondary legislation, available from www.ialibrary.berr.gov.uk/ImpactAssessment/?IAID=557d3737c80d45fa81ceacc5a9858a3b
2	Impact Assessment for the Banking Bill, available from http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/d/banking_bill_ia081008.pdf
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Annual recurring cost	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Total annual costs	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Transition benefits	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Annual recurring benefits	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Total annual benefits	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

The policy objective is to bring the bank rules into line with the general insolvency rules made by the Insolvency Service, which have been consulted on separately. The impact assessment for the insolvency rules modernisation project is available from the BERR website (www.ialibrary.berr.gov.uk/ImpactAssessment/?IAID=557d3737c80d45fa81ceacc5a9858a3b).

Ensuring that the BIP and BAP rules are consistent with the general insolvency rules will help to ensure that they are familiar to insolvency practitioners, banks and their professional advisers. By minimising the differences between with the general rules and those provided for banks, these instruments will minimise resource costs for insolvency practitioners, banks and their professional advisers (for example, cost associated with familiarising themselves with the new rules).

Further than that, it is not feasible to quantify the benefits of these amendment rules as distinct from the benefits of the procedures as a whole. As set out in the original impact assessment, the BIP and BAP bring non-monetised benefits to depositors and the wider economy in the event of the failure of a bank. The impact assessment for the BIP and BAP is available in the Impact Assessment for the Banking Act 2009, which is available from the National Archives website (http://webarchive.nationalarchives.gov.uk/20100407010852/http://www.hm-treasury.gov.uk/d/banking_bill_ia081008.pdf)

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];

The Treasury will ensure that arrangements for review are consistent with better regulation policy going forward. The rules will be reviewed as and when necessary to take account of any changes arising from the Insolvency Service's insolvency rules modernisation project. The rules are also kept under review by the Banking Liaison Panel (BLP) established under section 10 of the Banking Act 2009, and the Treasury.

Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

Treasury's is likely to review the rules to ensure that they remain consistent with the general insolvency rules made by the Insolvency Service on which these rules are based. The Banking Liaison Panel have a statutory role to advise the Treasury about the impact of secondary legislation made under the Banking Act on financial markets.

Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

The Treasury will evaluate the effectiveness of rules as appropriate if it becomes necessary to do; for example if problems are identified during the course of the resolution of a failing bank, or if the BLP identify issues of concern to financial markets, or if the general insolvency rules made by the Insolvency Service changes. The nature and scope of the review will depend on the issue that has been identified.

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]

N/A

Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

The main criterion for success for these rules is that the BIP and BAP can be used effectively in the event that it is necessary to do so.

Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

The main review mechanism is ongoing scrutiny by the Banking Liaison Panel, as described above.

Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]