# EXPLANATORY MEMORANDUM TO

# THE BANK OF ENGLAND LEVY (AMOUNT OF LEVY PAYABLE) REGULATIONS 2024

## 2024 No. 252

## 1. Introduction

1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of His Majesty.

## 2. Purpose of the instrument

2.1 This instrument provides the calculation that the Bank of England ("the Bank") must use when determining the amount of the Bank of England levy that an eligible institution is required to pay for a levy year. The SI makes provision for institutions that are not required to pay any levy, and how the total levy will be shared between institutions who are required to pay. The SI makes provision for discretions the Bank can use and for the information and liabilities that will be relevant.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 None.

## 4. Extent and Territorial Application

4.1 The extent of this instrument is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of this instrument is England and Wales, Scotland and Northern Ireland.

## 5. European Convention on Human Rights

5.1 The Economic Secretary to the Treasury (Bim Afolami) has made the following statement regarding Human Rights:

"In my view the provisions of the Bank of England Levy (Amount of Levy Payable) Regulations 2024 are compatible with the Convention rights."

## 6. Legislative Context

6.1 Sections 70 and 71 of the Financial Services and Markets Act 2023 will revoke Schedule 2 of the Bank of England Act 1998 "the 1998 Act" (the cash ratio deposit scheme) and insert Schedule 2ZA (the Bank of England Levy).

6.2 Under Schedule 2ZA, the Bank may charge the Bank of England levy on authorised deposit-takers (as defined in paragraph 2 of that Schedule) for a levy year. The Bank must determine which of its policy functions will be funded by the levy and the amount that it reasonably requires in connection with the funding of those functions for the levy year. The Bank's policy functions are functions in exercise of the Financial Stability Objective (section 2A of the 1998 Act) or its objectives in relation to monetary policy (section 11 of the 1998 Act).

6.3 Schedule 2ZA provides a power for HM Treasury to make Regulations and this SI will be made using that power. The Regulations make provision for determining the amount of the total levy that each eligible institution is liable to pay. This is the first time that the power will be used. This SI is subject to the affirmative procedure.

6.4 This SI provides that eligible institutions with eligible liabilities up to and including £600 million will not be required to pay the Bank of England levy. Eligible institutions with eligible liabilities greater than £600 million will be required to contribute to the Bank of England levy in proportion to the size of their eligible liabilities. It makes provision for how the eligible liabilities of an institution will be calculated.

## 7. Policy background

***What is being done and why?***

7.1 HMT previously ran a consultation and passed primary legislation to permit the replacement of the Cash Ratio Deposits (CRD) scheme with a levy to meet the ongoing costs of the Bank's policy functions. The proposal is mutually beneficial: firms have greater certainty on their contributions, and it's a simpler, more transparent funding scheme.

7.2 The Regulations will allocate the Bank's policy costs to payers in proportion to their eligible liability base. The policy rationale for this is the link between the size of a financial institution's liabilities and its potential impact on the Bank's financial stability functions and objectives in relation to monetary policy. The threshold that is used to determine which institutions are required to pay the levy, and the principle that larger institutions contribute larger amounts, in line with the benefits they receive from the Bank's Sterling Monetary Framework and the Bank's role as resolution authority remains the same as under the CRD scheme.

7.3 Before making this SI, the Treasury have consulted the Bank of England and representatives of other persons who are likely to be affected by the Regulations. A formal consultation on these regulations has been carried out (see paragraph 10.1). The Treasury have also had regard to the financial needs of the Bank, and the Levy will generate the income required for it to carry out its policy functions in a more predictable and transparent manner.

7.4 The government will continue to monitor the effectiveness of the funding model used to meet the Bank's policy costs and will conduct a formal review of these Regulations that will be published before the end of the period of five years beginning with 1st March 2024.

## 8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## 9. Consolidation

9.1 This legislation does not consolidate any other legislation.

## 10. Consultation outcome

10.1 A formal consultation on these regulations has been carried out. The consultation was launched on 8 November 2023 and closed on 15 December 2023[1] .We received a response from UK Finance, representing over 300 UK deposit-takers, seeking clarification the policy areas such as the gilt strategy and accounting treatment, without comment on the instrument itself but in support of the levy. We also received clarification questions from one individual financial institution.

## 11. Guidance

11.1 The government is not issuing further guidance on its approach to moving to a Bank of England Levy. The Bank of England has published a Consultation Paper[2] in which further detail can be found on the impact of the levy on eligible institutions.

## 12. Impact

12.1 The impact on business, is that eligible institutions with eligible liabilities up to and including £600 million will not be required to pay the Bank of England levy. Eligible institutions with eligible liabilities greater than £600 million will be required to contribute to the Bank of England levy in proportion to the size of their eligible liabilities. This replaces the requirement to make deposits under the Cash Ratio Deposits (CRD) Scheme for those institutions. There is no, or no significant, impact on charities and voluntary bodies.

12.2 The impact on the public sector is that the Cash Ratio Deposits (CRD) Scheme will be replaced with a levy to meet the ongoing costs of the Bank of England's policy functions.

12.3 A full Impact Assessment has not been prepared for this instrument because the Small Business, Enterprise and Employment Act 2015 (SBEE Act 2015) exempts regulations relating to taxes, levies, fees and charges from the regulatory impact assessment processes. An Impact Assessment is therefore not required for this measure because it is a levy, which is not in the scope of the SBEE Act 2015.

## 13. Regulating small business

13.1 The legislation excludes any eligible institutions with eligible liabilities up to and including £600 million from paying the levy.

## 14. Monitoring & review

14.1 The government will continue to monitor the effectiveness of the funding model used to meet the Bank's policy costs and will conduct a formal review of these Regulations that will be published before the end of the period of five years beginning with 1st March 2024. The Bank will remain subject to National Audit Office requirements.

14.2 A statutory review clause is included in the instrument.

[1] https://www.gov.uk/government/consultations/implementing-the-bank-of-england-levy-a-consultation-on-draft-regulations
[2] https://www.bankofengland.co.uk/paper/2023/cp/bank-of-england-levy-framework-document

## 15. Contact

15.1 Miranda Thyssen at HM Treasury email address: Miranda.thyssen@hmtreasury.gov.uk can be contacted with any queries regarding the instrument.

15.2 Kripali Manek, Deputy Director for Debt and Reserves Management at HM Treasury, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Bim Afolami, Economic Secretary to the Treasury at HM Treasury, can confirm that this Explanatory Memorandum meets the required standard.