



BANK OF ENGLAND

Rt Hon Mel Stride MP
Chair of the Treasury Committee
House of Commons
London
SW1A 0AA

Sam Woods
Deputy Governor for Prudential Regulation

2 July 2021

Dear Mel

I am writing to provide two follow-ups to my hearing on 23 June.

1. Conditions for assessing a proposed change in control of a regulated firm

During the hearing, you asked me to set out my thoughts on possible enhancements to the conditions for assessing a proposed change in control (“Conditions”) under the Financial Services and Markets Act (FSMA).

It is critical the regulators can prevent acquisitions that threaten the safety and soundness of regulated firms or other relevant regulatory objectives. The Conditions were amended in 2009 to implement the EU Acquisitions Directive¹, which aimed to prevent national regulators objecting to cross-border acquisitions for protectionist reasons. While the amended Conditions do allow the regulators to intervene where we identify material concerns, a small modification would enable a more rigorous review of acquisitions.

The Conditions require the regulator to: consider the suitability of the potential acquirer and the financial soundness of the acquisition to ensure sound and prudent management of the firm; have regard to the likely influence of the acquirer on the firm; and disregard the economic needs of the market. Any objection to an acquisition must be based on six criteria relating to: the acquirer’s reputation and financial soundness; the reputation, knowledge, skills and experience of the firm’s directors; the firm’s ongoing ability to meet prudential requirements and threshold conditions; the impact of any change of the firm’s group on supervision; and the risk of money laundering or terrorist financing². These criteria are sensible and we do not believe they need to be changed from a prudential supervisory perspective.

However, before the Acquisitions Directive, the regulator could object to an acquisition unless it was satisfied that the relevant conditions were met. Now, the regulator may only object to a complete application if there are reasonable grounds for doing so based on the six criteria. This shifted the burden of proof. We are raising with HM Treasury the possibility of reverting the burden to the original approach, to allow the regulator to object unless it is satisfied it is appropriate for an acquisition to take place in the light of the relevant criteria. Doing so would strengthen the hand of the regulator where the position is unclear and be conducive in practice to an even more robust approach to the review of acquisitions.

¹ Directive 2007/44/EC (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32007L0044>).

² Sections 185 and 186 FSMA.

2. Timing of Bank communications to HM Treasury about information from BaFin related to a possible weakness in controls at Greensill

Following my hearing, you also sought further clarity on when the Bank first informed HM Treasury about the information from BaFin related to a possible weakness in controls at Greensill.

As I explained during the hearing, we kept HM Treasury informed on an ongoing basis about the situation with Wyelands Bank plc but our view of Greensill was limited. The potentially serious nature of the financial difficulties at Greensill began to become apparent to the PRA in October 2020 when speaking to BaFin. These concerns were reinforced by developments over the following months. On 3 November, we updated HM Treasury on the information we had received from BaFin. As the problems intensified, we informed HM Treasury of the latest intelligence from BaFin on 27 January and 1 February 2021. Prior to October 2020, the information we had received from BaFin about weaknesses in controls was not passed to HM Treasury because it conveyed less serious concerns about Greensill than the October information. It also did not add materially to our pre-existing concerns about the position of Wyelands and its relationship with the GFG Alliance, which we were already sharing with HM Treasury.

I hope this is helpful to the Committee.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Woods', written in a cursive style.

Sam Woods
Deputy Governor and CEO, Prudential Regulation Authority