

Ring-Fencing and Proprietary Trading Review

Barclays Response to the Call for Evidence

Executive Summary

- Internationally driven enhancements to bank capital, balance sheet management and recovery and resolution planning, which were brought into force since the global financial crisis have delivered a more stable and resilient banking system globally, and in the UK. UK banks were tested, and found to be robust, during the recent pandemic.
- In some cases, the UK has exceeded international standards relating to prudential requirements. In addition to enhanced capital standards domestically, the UK goes further with its unique implementation of a ring-fencing regime.
- We consider, therefore, that prudential reforms, other than ring-fencing, have contributed most to supporting financial stability of the UK banking sector.
- Certain aspects of the ring-fencing regime have led to unintended consequences. These detract from the original objectives of ring-fencing. In particular:
 - An overly conservative approach to diversification of risk in ring-fenced banks embedded in the legislation.
 - Restrictions on ring-fenced bank groups' ability to transfer liquidity to parts of the economy where it is needed.
 - Unnecessary friction in ring-fenced bank groups' provision of products and services to customers and clients, particularly in relation to the inflexibility of certain aspects of the secondary legislation (such as the definition of Relevant Financial Institution) and burdensome information requirements for non-ring-fenced-banks (such as the Notice of Declaration).
 - Limiting, in legislation, ring-fenced banks' (RFB) ability to invest in fintechs that are a source of innovation in the sector, because of inflexible and disproportionate restrictions on ring-fenced banks' relationships with other financial institutions.
- The detailed and prescriptive nature of the legislation affords little flexibility to regulators to use their discretion and to implement the ring-fencing requirements in a pragmatic way, leading to unintended outcomes and poor customer experiences.
- The Review Panel should seize this opportunity to recommend appropriate changes to the legislation that will alleviate concerns relating to potential sources of financial stability risk and remove unnecessary friction to client servicing, and to recognise the need for NRFBs to compete for clients internationally and with foreign peers who are operating in the UK, but outside of ring-fencing restrictions. Such changes will also have the potential to stimulate the UK economy by enabling RFBs to invest in a wider range of UK initiatives such as technology and the green economy.

- We recommend that another formal review should be undertaken after five years to check on the progress and the impacts of the urgent amendments that are needed to legislation now, and to enable a further evaluation of the costs and benefits of ring-fencing.

Recommendations

- There should be greater flexibility on where Relevant Financial Institutions (RFI) can be banked to enable firms to take pragmatic views on the best location for clients, whether that is within or outside of the ring-fence, where it is in the best interests of clients (whether that is within or outside of the ring-fence). The impact on clients due to the inflexibility of the legislation is disproportionate to ring-fencing objectives and a small change to the legislation can make a big operational difference and yet have very little impact on the overall structure of ring-fenced groups.
- Exemptions under the EAPO should be broadened to allow RFBs to invest in a more diverse range of assets.
- Changes should be made to the EAPO to allow RFBs to invest in technology companies, accelerators or other types of funds which are aligned to the needs of the retail banking sector or the future of the UK economy such as green projects.
- The requirement for NRFBs to issue Notice of Declaration to its global clients, unnecessarily elongates the onboarding process and should be removed on the basis that the practice does not support UK financial stability or ring-fencing purposes and impairs the client experience.
- The Brexit legislation amended the Regulated Activities Order which had the effect of narrowing the scope of qualifying counterparties of NRFB to UK only. While this made sense in the immediate context of Brexit on-shoring, there are broader policy implications that are relevant in this area, which we would now invite HM Treasury to revisit. We suggest that the EEA-centric definitions should be reinstated by bringing the relevant sections of the Regulated Activities Order (RAO) into ring-fencing legislation directly (rather than incorporation by reference). Now that the UK has left the EU, we suggest the introduction of amendments to add EEA and other international central banks, and a wider list of supra-nationals, etc. to the list of permitted organisations in the EAPO.