

Guidance for the Australian Clearing and Settlement Facility Resolution Regime

Response Paper

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Contents

1. Introduction and background	2
2. Overview of consultation submissions	3
3. Detailed comments and responses to feedback	4
4. Next steps	8

1. Introduction and background

In September 2024, the Australian Parliament passed the *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024* (the Amending Act). This amended the *Corporations Act 2001* to provide the Reserve Bank of Australia (RBA) with crisis resolution powers in respect of domestically incorporated Clearing and Settlement (CS) facilities. These powers enable the RBA to manage or respond to a threat posed to the continuity of critical CS facility services or the stability of the financial system in Australia arising in relation to a domestic CS facility licensee.

Prior to the passing of the Amending Act, several stakeholders requested more information about the circumstances in which resolution could occur and how resolution powers could be used.

In June 2025, in response to these stakeholder requests, the RBA released a consultation paper seeking views from interested parties on its draft guidance for the Australian CS Facility Resolution Regime.¹ This draft guidance included key principles that the RBA intends to follow in conducting resolution and commentary on how the RBA expects the various stages of resolution might occur.

The RBA subsequently received feedback from respondents and has considered it carefully. This response paper summarises the feedback received and sets out how the RBA has addressed it in the final form of the Guidance as published in February 2026.

¹ See RBA (2025), '[Guidance for the Australian Clearing and Settlement Facility Resolution Regime](#)', Consultation Paper, June.

2. Overview of consultation submissions

The RBA would like to thank respondents for their submissions to the consultation paper on its draft guidance.

Five submissions were received, one of which was confidential. In addition, the RBA held meetings with some respondents. The feedback generally supported the RBA's proposed key principles for the use of CS facility resolution powers. These principles include the RBA's aim to provide open and timely communication and to generally follow the CS facility's procedures, rules and other arrangements to stabilise the CS facility and allocate losses.

Respondents acknowledged the RBA's need to maintain flexibility in its use of resolution powers due to the unforeseeable nature of the circumstances that could lead to resolution. However, some respondents requested more information and specificity about key areas of the resolution regime. Many of the comments in the submissions sought further detail and clarity as to the circumstances in which resolution might occur and in which specific powers might be used. Respondents asked for information about when and how various steps might occur including timelines and other details. Respondents also asked for the RBA to make less qualified statements as to what might occur, particularly in relation to the use of loss allocation tools. The RBA has considered the feedback and looked for opportunities to provide more information where appropriate.

The RBA understands the preference for a high level of clarity as to when the resolution powers might be used. Use of these powers has the potential to affect market participants. The RBA also recognises that respondents wish to be prepared for a possible resolution event and that such preparedness would be beneficial if a resolution were to occur. However, as noted in the Guidance, the resolution powers are intended to be used in crisis situations, which are likely to be fast moving and unpredictable. Parliament has provided the RBA with broad and flexible powers to enable it to respond effectively to such a crisis situation. The RBA takes this responsibility seriously. The RBA considers that the Guidance provides an appropriate level of transparency in view of the potential challenges and complexity likely to be involved in responding to a crisis.

The RBA is at a relatively early stage of resolution planning. The Guidance has been informed by similar documents from other jurisdictions. However, authorities around the world are also currently developing their frameworks for CS resolution. As part of this, authorities are actively sharing ideas about what resolution strategies are likely to be most effective, what good resolution planning looks like and how to achieve robust crisis readiness. As resolution plans mature, the RBA expects authorities will also discuss how potentially interconnected resolutions in a crisis will be coordinated. The RBA is participating in these discussions. As the RBA continues to develop resolution strategies to address credible scenarios specific to domestic conditions, the RBA intends to continue to engage with CS facilities, their participants and other interested parties. There may be opportunities to update the Guidance as the RBA moves towards a fully mature crisis response framework.

3. Detailed comments and responses to feedback

3.1 Entry into resolution

Respondents requested more information about the types of scenarios in which the RBA would be likely to exercise a resolution power. One respondent asked for more specific detail about the circumstances in which the RBA could place a CS facility into resolution in either a default or non-default event, and when the RBA would choose not to proceed to resolution. Another respondent asked whether resolution powers could be used to address liquidity pressures (as well as threats to solvency).

Response – As indicated in the Guidance, the RBA’s general expectation is that a CS facility would use its own recovery plan and other arrangements to address most stress events, including both default and non-default events. The RBA expects the use of resolution powers to be a last-resort option.

Action – The Guidance has been updated to include more information on the potential use of resolution powers where a CS facility is subject to severe liquidity constraints.

3.2 Loss allocation

Respondents requested more certainty about how the RBA intends to allocate losses. Some asked for specific commitments to follow the CS facility’s existing loss allocation arrangements. One respondent asked the RBA to limit the use of a central counterparty’s recovery tools such as variation margin gains haircutting and cash calls in resolution and rule out the use of tools such as initial margin haircutting.

Response – As indicated in the Guidance, one of the RBA’s key principles, which is relevant to loss allocation, is that the RBA will generally seek to respect the rules and procedures of the CS facility, including the CS facility’s own arrangements to manage and recover from a crisis, to the extent that this is consistent with the resolution objective.

Action – The Guidance has been updated to more clearly acknowledge that unexpected changes to loss allocation could generate risks to financial stability and to make it clear that under most plausible scenarios, the RBA does not expect to limit or expand the application of rulebook loss allocation tools during a CS facility’s resolution.

3.3 Direction to amend the operating rules

Respondents noted the inherent flexibility of the resolution direction, and in particular the RBA's power to direct an amendment to the CS facility's rules. They expressed concern that the RBA could impose unexpected changes, including unexpected losses, on participants during the CS facility's resolution. One respondent raised a concern about how much notice participants would be given about possible directed rule changes.

Response – As noted above, the RBA is seeking to provide an appropriate level of transparency in view of the potential challenges and complexity likely to be involved in responding to a crisis scenario.

Action – The Guidance has been updated to clarify that the RBA would generally expect to communicate its intended action to participants before requiring any rule changes and would seek to do so as soon as practicable (and consistent with the resolution objective).

3.4 Communication and transparency during resolution

Many respondents requested more information about how the RBA intends to communicate with stakeholders when a decision is made to use a resolution power and throughout the resolution, and the channels or form that communication would take. One respondent asked how the RBA could maintain transparency without compromising financial stability, and whether participants would be able to provide input into the RBA's decision-making. One suggestion was for the RBA to consider publishing post-resolution reports to enable future industry preparedness. Another respondent requested more information about how the RBA would signal a CS facility's entry into resolution. One respondent asked whether resolution plans made under section 827DB of the Corporations Act would be published.

Response – Clear, open and timely communication and stakeholder preparedness is likely to be critically important for managing an effective crisis response. As noted in the Guidance, it is a key principle for the RBA's approach to resolution that it will seek to communicate in an open and timely way to the extent that this is consistent with the resolution objective.

Action – The Guidance has been updated to include additional text about the RBA's expected methods of communication during a CS facility resolution. The Guidance also includes text that the RBA expects to develop and publish a resolution report once resolution has ended.

3.5 Co-ordination with other regulatory authorities

Many respondents requested more information about how the RBA intends to coordinate its actions with other regulatory authorities, including the Australian Prudential Regulatory Authority (APRA) and the home authorities of overseas-based participants. One respondent expressed concern that actions taken by the RBA could have a significant impact on a wide number of stakeholders especially if the CS facility's resolution coincides with broad systemic stress.

Response – The RBA recognises that the resolution of a CS facility may coincide with, or be caused by, broader stress in the financial system. The RBA also recognises that its resolution actions may have broad implications for a wide range of stakeholders.

Action – The Guidance has been updated to include additional information about RBA's communication and coordination arrangements with other members of Australia's Council of Financial Regulators, including APRA, and with foreign regulators.

3.6 Other comments

Comments on other resolution-related topics were also received and are summarised below. Upon careful consideration, the Guidance has not been updated to reflect these comments at this time. The RBA will consider further updates to the Guidance in respect of these topics as the resolution planning progresses.

- *Scenarios and industry fire-drills* – Many respondents asked how the RBA might use its resolution powers in specific scenarios, for example, where two participants default and the RBA believes the use of recovery tools could create contagion risk. As noted above, the RBA continues to develop resolution strategies to address credible scenarios specific to domestic conditions. The RBA may consider updating the Guidance as this work progresses. Many respondents also suggested the RBA assist the industry to prepare for a resolution by conducting joint scenario analysis, roundtables, workshops and fire drills. The RBA welcomes this suggestion and will consider such exercises more fully as resolution planning is further progressed.
- *Funding* – One respondent requested more information about the conditions under which the \$5 billion funding appropriation could be accessed. Access to this appropriation is a matter for the Australian Government. The respondent also asked about the circumstances where the RBA would provide backstop liquidity. The RBA's role as resolution authority is separate from its role as provider of liquidity facilities. The RBA's position regarding liquidity facilities is set out on the RBA website and is not the subject of the Guidance.²

2 See RBA (2025), '[Liquidity Facilities](#)', 18 November.

- *Compensation* – One respondent suggested that participants who suffer losses in excess of the CS facility's rulebook arrangements should receive compensation in line with the 'no creditor worse-off' principle in the Financial Stability Board's guidance 'Key Attributes of Effective Resolution Regimes for Financial Institutions'. The mechanism for compensation in Part 7.3B of the Corporations Act³ may be relevant to certain losses suffered by participants. The operation of that compensation mechanism is not the subject of the Guidance.
- *Transfer powers* – One respondent asked for more detail about the use of transfer powers, particularly in respect of the effect on contracts between the transferring CS facility and participants. The respondent also asked how the RBA would assess market concentration risks or anti-competitive outcomes, and whether the Australian Competition and Consumer Commission (ACCC) would be consulted if the RBA decides a transfer is appropriate. The RBA must consult with the ACCC before making a determination that there is to be a compulsory transfer of shares or business (unless ACCC has notified the RBA that such consultation is not required).⁴ There are certain legal protections for transfers.⁵ The protections are not the subject of the Guidance.

³ See section 849CE of the *Corporations Act 2001*.

⁴ See section 837G of the *Corporations Act 2001*.

⁵ See section 839J of the *Corporations Act 2001*.

4. Next steps

Significant further work will be required to reach a fully mature crisis response framework for CS facilities. The Guidance is expected to evolve as the RBA progresses its resolution planning efforts, drawing on the global exchange of ideas, and as it continues to engage with CS facilities, their participants and other interested parties. The RBA plans to revisit and update the Guidance periodically and intends to seek input from stakeholders when doing so.