SCHEDULES

SCHEDULE 2

Section 17

BAIL-IN STABILISATION OPTION

PART 1

AMENDMENTS OF BANKING ACT 2009

1 The Banking Act 2009 is amended as follows.

New stabilisation option: bail-in

2 After section 12 insert—

"**12A Bail-in option**

(1) The third stabilisation option is exercised by the use of the power in subsection (2).

(2) The Bank of England may make one or more resolution instruments (which may contain provision or proposals of any kind mentioned in subsections (3) to (6)).

(3) A resolution instrument may—
  (a) make special bail-in provision with respect to a specified bank;
  (b) make other provision for the purposes of, or in connection with, any special bail-in provision made by that or another instrument.

(4) A resolution instrument may—
  (a) provide for securities issued by a specified bank to be transferred to a bail-in administrator (see section 12B) or another person;
  (b) make other provision for the purposes of, or in connection with, the transfer of securities issued by a specified bank (whether or not the transfer has been or is to be effected by that instrument, by another resolution instrument or otherwise).

(5) A resolution instrument may set out proposals with regard to the future ownership of a specified bank or of the business of a specified bank, and any other proposals (for example, proposals about making special bail-in provision) that the Bank of England may think appropriate.

(6) A resolution instrument may make any other provision the Bank of England may think it appropriate to make in exercise of specific powers under this Part.

(7) Provision made in accordance with subsection (4) may relate to—

(a) specified securities, or
(b) securities of a specified description.

(8) Where the Bank of England has exercised the power in subsection (4) to transfer securities to a bail-in administrator, the Bank of England must exercise its functions under this Part (see, in particular, section 48V) with a view to ensuring that any securities held by a person in the capacity of a bail-in administrator are so held only for so long as is, in the Bank of England's opinion, appropriate having regard to the special resolution objectives.

(9) References in this Part to "special bail-in provision" are to provision made in reliance on section 48B.

12B Bail-in administrators

(1) The Bank of England may, in a resolution instrument, appoint an individual or body corporate as a bail-in administrator.

(2) A bail-in administrator is appointed—
(a) to hold any securities that may be transferred or issued to that person in the capacity of bail-in administrator;
(b) to perform any other functions that may be conferred under any provision of this Part.

(3) The Bank of England may appoint more than one bail-in administrator to perform functions in relation to a bank (but no more than one of them may at any one time be authorised to hold securities as mentioned in subsection (2)(a)).

(4) Securities held by a bail-in administrator (in that capacity, and whether as a result of a resolution instrument or otherwise) are to be held in accordance with the terms of a resolution instrument that transfers those, or other, securities to the bail-in administrator.

(5) For example, the following provision may be made by virtue of subsection (4)—
(a) provision that specified rights of a bail-in administrator with respect to all or any of the securities are to be exercisable only as directed by the Bank of England;
(b) provision specifying rights or obligations that the bail-in administrator is, or is not, to have in relation to some or all of the securities.

(6) A bail-in administrator must have regard, in performing any functions of the office, to any objectives that may be specified in a resolution instrument.

(7) Where one or more objectives are specified in accordance with subsection (6), the objectives are to be taken to have equal status with each other, unless the contrary is stated in the resolution instrument.

(8) See sections 48I to 48K for further provision about bail-in administrators."

3 After section 8 insert—

"**8A Specific condition: bail-in**

(1) The Bank of England may exercise a stabilisation power in respect of a bank in accordance with section 12A(2) only if satisfied that the condition in subsection (2) is met.

(2) The condition is that the exercise of the power is necessary, having regard to the public interest in—
  (a) the stability of the financial systems of the United Kingdom,
  (b) the maintenance of public confidence in the stability of those systems,
  (c) the protection of depositors, or
  (d) the protection of any client assets that may be affected.

(3) Before determining whether that condition is met, and if so how to react, the Bank of England must consult—
  (a) the PRA,
  (b) the FCA, and
  (c) the Treasury.

(4) The condition in this section is in addition to the conditions in section 7."

Further provision about the bail-in option

4 After section 48A insert—

"Bail-in option

48B Special bail-in provision

(1) "Special bail-in provision", in relation to a bank, means any of the following (or any combination of the following)—
  (a) provision cancelling a liability owed by the bank;
  (b) provision modifying, or changing the form of, a liability owed by the bank;
  (c) provision that a contract under which the bank has a liability is to have effect as if a specified right had been exercised under it.

(2) "Special bail-in provision", in relation to a bank, also includes any associated provision (see subsection (3)) that the Bank of England may think it appropriate to make in consequence of any provision under subsection (1) that—
  (a) is made in the same resolution instrument, or
  (b) has been made in another resolution instrument in respect of the bank.

(3) "Associated provision" means provision cancelling or modifying a contract under which a banking group company has a liability.

(4) A power to make special bail-in provision—

(a) may be exercised only for the purpose of, or in connection with, reducing, deferring or cancelling a liability of the bank;

(b) may not be exercised so as to affect any excluded liability.

(5) The following rules apply to the interpretation of subsection (1).

1. The reference to cancelling a liability owed by the bank includes a reference to cancelling a contract under which the bank has a liability.
2. The reference to modifying a liability owed by the bank includes a reference to modifying the terms (or the effect of the terms) of a contract under which the bank has a liability.
3. The reference to changing the form of a liability owed by the bank, includes, for example—
   (a) converting an instrument under which the bank owes a liability from one form or class to another,
   (b) replacing such an instrument with another instrument of a different form or class, or
   (c) creating a new security (of any form or class) in connection with the modification of such an instrument.

(6) Examples of special bail-in provision include—

(a) provision that transactions or events of any specified kind have or do not have (directly or indirectly) specified consequences or are to be treated in a specified manner for specified purposes;

(b) provision discharging persons from further performance of obligations under a contract and dealing with the consequences of persons being so discharged.

(7) The form and class of the instrument ("the resulting instrument") into which an instrument is converted, or with which it is replaced, do not matter for the purposes of paragraphs (a) and (b) of rule 3 in subsection (5); for instance, the resulting instrument may (if it is a security) fall within Class 1 or any other Class in section 14.

(8) The following liabilities of the bank are "excluded liabilities"—

(a) liabilities representing protected deposits;

(b) any liability, so far as it is secured;

(c) liabilities that the bank has by virtue of holding client assets;

(d) liabilities with an original maturity of less than 7 days owed by the bank to a credit institution or investment firm;

(e) liabilities arising from participation in designated settlement systems and owed to such systems or to operators of, or participants in, such systems;

(f) liabilities owed to central counterparties recognised by the European Securities and Markets Authority in accordance with Article 25 of Regulation (EU) 648/2012 of the European Parliament and the Council;

(g) liabilities owed to an employee or former employee in relation to salary or other remuneration, except variable remuneration;

(h) liabilities owed to an employee or former employee in relation to rights under a pension scheme, except rights to discretionary benefits;

(i) liabilities owed to creditors arising from the provision to the bank of goods or services (other than financial services) that are critical to the daily functioning of the bank's operations.

(9) The following special rules apply in cases involving banking group companies—

(a) a liability mentioned in subsection (8)(d) is not an excluded liability if the credit institution or investment firm to which the liability is owed is a banking group company in relation to the bank (see section 81D);

(b) in subsection (8)(i) the reference to creditors does not include companies which are banking group companies in relation to the bank.

48C Meaning of "protected deposit"

(1) A deposit is "protected" so far as it is covered by the Financial Services Compensation Scheme.

(2) A deposit is "protected" so far as it is covered by a scheme which—

(a) operates outside the United Kingdom, and

(b) is comparable to the Financial Services Compensation Scheme.

(3) If one or both of subsections (1) and (2) apply to a deposit, the amount of the deposit "protected" is the highest amount which results from either of those subsections.

(4) In subsections (1) and (2) and section 48B(8)(a), "deposit" has the meaning given by article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), but ignoring the exclusions in article 6.

48D General interpretation of section 48B

(1) In section 48B—

"client assets" means assets which the bank has undertaken to hold on trust for, or on behalf of, a client;

"contract" includes any instrument;

"credit institution" means any credit institution as defined in Article 4.1(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council, other than an entity mentioned in Article 2.5(2) to (23) of Directive 2013/36/EU of the European Parliament and of the Council;

"designated settlement system" means a system designated in accordance with Directive 98/26/EC of the European Parliament and of the Council (as amended by Directives 2009/44/EC and 2010/78/EU);

"employee" includes the holder of an office;

"investment firm" means an investment firm as defined in Article 4.1(2) of Regulation (EU) No 575/2013 of the European Parliament and of the Council that is subject to the initial capital requirement

specified in Article 28(2) of Directive 2013/36/EU of the European Parliament and of the Council;

"pension scheme" includes any arrangement for the payment of pensions, allowances and gratuities;

"secured" means secured against property or rights, or otherwise covered by collateral arrangements.

(2) In subsection (1)—

"assets" has the same meaning as in section 232(4) (ignoring for these purposes section 232(5A)(b));

"collateral arrangements" includes arrangements which are title transfer collateral arrangements for the purposes of section 48.

(3) For the purposes of section 48B(8)(h), a benefit under a pension scheme is discretionary so far as the employee's right to the benefit resulted from the exercise of a discretion.

48E Report on special bail-in provision

(1) This section applies where the Bank of England makes a resolution instrument containing special bail-in provision (see section 48B).

(2) The Bank of England must report to the Chancellor of the Exchequer stating the reasons why that provision has been made in the case of the liabilities concerned.

(3) If the provision departs from the insolvency treatment principles, the report must state the reasons why it does so.

(4) The insolvency treatment principles are that where an instrument includes special bail-in provision—

(a) the provision made by the instrument must be consistent with treating all the liabilities of the bank in accordance with the priority they would enjoy on a liquidation, and

(b) any creditors who would have equal priority on a liquidation are to bear losses on an equal footing with each other.

(5) A report must comply with any other requirements as to content that may be specified by the Treasury.

(6) A report must be made as soon as reasonably practicable after the making of the resolution instrument to which it relates.

(7) The Chancellor of the Exchequer must lay a copy of each report under subsection (2) before Parliament.

48F Power to amend definition of "excluded liabilities"

(1) The Treasury may by order amend section 48B(8) by—

(a) adding to the list of excluded liabilities;

(b) amending or omitting any paragraph of that subsection, other than paragraphs (a) to (c).

(2) The Treasury may by order amend section 48C or 48D.

(3) The powers conferred by subsections (1) and (2) include power to make consequential and transitional provision.

(4) An order under this section—
  (a) is to be made by statutory instrument, and
  (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(5) The Treasury must consult before laying a draft order under this section before Parliament.

48G Priority between creditors

(1) The Treasury may, for the purpose of ensuring that the treatment of liabilities in any instrument that contains special bail-in provision is aligned to an appropriate degree with the treatment of liabilities on an insolvency, by order specify matters or principles to which the Bank of England is to be required to have regard in making any such instrument.

(2) An order may, for example, specify the insolvency treatment principles (as defined in section 48E(4)) or alternative principles.

(3) An order may specify the meaning of "insolvency" for one or more purposes of the order.

(4) An order may amend sections 44C(4) and 48E(4).

(5) An order—
  (a) is to be made by statutory instrument, and
  (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

48H Business reorganisation plans

(1) A resolution instrument may require a bail-in administrator, or one or more directors of the bank, to—
  (a) draw up a business reorganisation plan with respect to the bank, and
  (b) submit it to the Bank of England within the period allowed by (or under) the instrument.

(2) "Business reorganisation plan" means a plan that includes—
  (a) an assessment of the factors that caused Condition 1 in section 7 to be met in the case of the bank,
  (b) a description of the measures to be adopted with a view to restoring the viability of the bank, and
  (c) a timetable for the implementation of those measures.

(3) Where a person has submitted a business reorganisation plan to the Bank of England under subsection (1) (or has re-submitted a plan under subsection (4)), the Bank of England—
  (a) must approve the plan if satisfied that the plan is appropriately designed for meeting the objective mentioned in subsection (2)(b);

(b) must otherwise require the person to amend the plan in a specified manner.

(4) Where the Bank of England has required a person to amend a business reorganisation plan, the person must re-submit the amended plan within the period allowed by (or under) the resolution instrument.

(5) Before deciding what action to take under subsection (3) the Bank of England must (for each submission or re-submission of a plan) consult—

(a) the PRA, and

(b) the FCA.

(6) A business reorganisation plan may include recommendations by the person submitting the plan as to the exercise by the Bank of England of any of its powers under this Part in relation to the bank.

(7) Where a resolution instrument contains provision under subsection (1), the instrument may—

(a) specify further matters (in addition to those mentioned in subsection (2)) that must be dealt with in the business reorganisation plan;

(b) make provision about the timing of actions to be taken in connection with the making and approval of the plan;

(c) enable any provision that the Bank of England has power under paragraph (a) or (b) to make in the instrument to be made instead in an agreement between the Bank of England and the person required to draw up the business reorganisation plan.

(8) For the purposes of subsection (2)(b) the viability of a bank is to be assessed by reference to whether the bank satisfies, and (if so) for how long it may be expected to continue to satisfy, the threshold conditions (as defined in section 55B of the Financial Services and Markets Act 2000).

48I Bail-in administrator: further functions

(1) A resolution instrument may—

(a) authorise a bail-in administrator to manage the bank's business (or confer on a bail-in administrator any other power with respect to the management of the bank's business);

(b) authorise a bail-in administrator to exercise any other powers of the bank;

(c) confer on a bail-in administrator any other power the Bank of England may consider appropriate;

(d) provide that the exercise of any power conferred by the instrument in accordance with this section is to be subject to conditions specified in the instrument.

(2) A resolution instrument may require a bail-in administrator to make reports to the Bank of England—

(a) on any matter specified in the instrument, and

(b) at the times or intervals specified in the instrument.

(3) If a resolution instrument specifies a matter in accordance with subsection (2)(a), it may provide for further requirements as to the contents of the report on that matter to be specified in an agreement between the Bank of England and the bail-in administrator.

(4) A resolution instrument may—

(a) require a bail-in administrator to consult specified persons before exercising specified functions (and may specify particular matters on which the specified person must be consulted);

(b) provide that a bail-in administrator is not to exercise specified functions without the consent of a specified person.

48J Bail-in administrator: supplementary

(1) A bail-in administrator may do anything necessary or desirable for the purposes of or in connection with the performance of the functions of the office.

(2) A bail-in administrator is not a servant or agent of the Crown (and, in particular, is not a civil servant).

(3) Where a bail-in administrator is appointed under this Part, the Bank of England—

(a) must make provision in a resolution instrument for resignation and replacement of the bail-in administrator;

(b) may remove the bail-in administrator from office only (i) on the ground of incapacity or misconduct, or (ii) on the ground that there is no further need for a person to perform the functions conferred on the bail-in administrator.

48K Bail-in administrator: money

(1) A resolution instrument may provide for the payment of remuneration and allowances to a bail-in administrator.

(2) Provision made under subsection (1) may provide that the amounts are—

(a) to be paid by the Bank of England, or

(b) to be determined by the Bank of England and paid by the bank.

(3) A bail-in administrator is not liable for damages in respect of anything done in good faith for the purposes of or in connection with the functions of the office (subject to section 8 of the Human Rights Act 1998).

48L Powers in relation to securities

(1) A resolution instrument may—

(a) cancel or modify any securities to which this subsection applies;

(b) convert any such securities from one form or class into another.

(2) Subsection (1) applies to securities issued by the bank that fall within Class 1 in section 14.

(3) A resolution instrument may—

(a) make provision with respect to rights attaching to securities issued by the bank;

(b) provide for the listing of securities issued by the bank to be discontinued.

(4) The reference in subsection (1)(b) to converting securities from one form or class into another includes creating a new security in connection with the modification of an existing security.

(5) The provision that may be made under subsection (3)(a) includes, for example—

(a) provision that specified rights attaching to securities are to be treated as having been exercised;

(b) provision that the Bank of England, or a bail-in administrator, is to be treated as authorised to exercise specified rights attaching to securities;

(c) provision that specified rights attaching to securities may not be exercised for a period specified in the instrument.

(6) In subsection (3)(b) the reference to "listing" is to listing under section 74 of the Financial Services and Markets Act 2000.

(7) The provision that may be made under this section in relation to any securities is in addition to any provision that the Bank of England may have power to make in relation to them under section 48B.

48M Termination rights, etc

(1) In this section "default event provision" has the same meaning as in section 22.

(2) A resolution instrument may provide for subsection (3) or (4) to apply (but need not apply either).

(3) If this subsection applies, the resolution instrument is to be disregarded in determining whether a default event provision applies.

(4) If this subsection applies, the resolution instrument is to be disregarded in determining whether a default event provision applies except so far as the instrument provides otherwise.

(5) In subsections (3) and (4) a reference to the resolution instrument is a reference to—

(a) the making of the instrument,

(b) anything that is done by the instrument or is to be, or may be, done under or by virtue of the instrument, and

(c) any action or decision taken or made under this or another enactment in so far as it resulted in, or was connected to, the making of the instrument.

(6) Provision under subsection (2) may apply subsection (3) or (4)—

(a) generally or only for specified purposes, cases or circumstances, or

(b) differently for different purposes, cases or circumstances.

(7) A thing is not done by virtue of a resolution instrument for the purposes of subsection (5)(b) merely by virtue of being done under a contract or other agreement rights or obligations under which have been affected by the instrument.

48N Directors

(1) A resolution instrument may enable the Bank of England—
  (a) to remove a director of a specified bank;
  (b) to vary the service contract of a director of a specified bank;
  (c) to terminate the service contract of a director of a specified bank;
  (d) to appoint a director of a specified bank.

(2) Subsection (1) also applies to a director of any undertaking which is a banking group company in respect of a specified bank.

(3) Appointments under subsection (1)(d) are to be on terms and conditions agreed with the Bank of England.

48O Directions in or under resolution instrument

(1) A resolution instrument may—
  (a) require one or more directors of the bank to comply with any general or specific directions that may be set out in the instrument;
  (b) enable the Bank of England to give written directions (whether general or specific) to one or more directors of the bank.

(2) A director—
  (a) is not to be regarded as failing to comply with any duty owed to any person (for example, a shareholder, creditor or employee of the bank) by virtue of any action or inaction in compliance with a direction given under subsection (1)(a) or (b);
  (b) is to be immune from liability in damages in respect of action or inaction in accordance with a direction.

(3) A director must comply with a direction within the period of time specified in the direction, or if no period of time is specified, as soon as reasonably practicable.

(4) A direction under subsection (1)(a) or (b) is enforceable on an application made by the Bank of England, by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

48P Orders for safeguarding certain financial arrangements

(1) In this section "protected arrangements" means security interests, title transfer collateral arrangements, set-off arrangements and netting arrangements.

(2) In subsection (1)—

"netting arrangements" means arrangements under which a number of claims or obligations can be converted into a net claim or obligation, and includes, in particular, "close-out" netting

arrangements, under which actual or theoretical debts are calculated during the course of a contract for the purpose of enabling them to be set off against each other or to be converted into a net debt;

"security interests" means arrangements under which one person acquires, by way of security, an actual or contingent interest in the property of another;

"set-off arrangements" means arrangements under which two or more debts, claims or obligations can be set off against each other;

"title transfer collateral arrangements" means arrangements under which Person 1 transfers assets to Person 2 on terms providing for Person 2 to transfer assets if specified obligations are discharged.

(3) The Treasury may by order—

(a) restrict the exercise of any power within the scope of this paragraph in cases that involve, or where the exercise of the power might affect, protected arrangements;

(b) impose conditions on the exercise of any power within the scope of this paragraph in cases that involve, or where the exercise of the power might affect, protected arrangements;

(c) require any instrument that makes special bail-in provision to include specified provision, or provision to a specified effect, in respect of or for purposes connected with protected arrangements;

(d) provide for an instrument to be void or voidable, or for other consequences to arise, if or in so far as the instrument is made or purported to be made in contravention of a provision of the order (or of another order under this section);

(e) specify principles to which the Bank of England is to be required to have regard in exercising specified powers—

(i) that involve protected arrangements, or

(ii) where the exercise of the powers might affect protected arrangements.

(4) References to exercising a power within the scope of paragraph (a) or (b) of subsection (3) are to making an instrument containing provision made in reliance on section 12A(3)(a) or 44B (special bail-in provision).

(5) An order may apply to protected arrangements generally or only to arrangements—

(a) of a specified kind, or

(b) made or applying in specified circumstances.

(6) An order may include provision for determining which arrangements are to be, or not to be, treated as protected arrangements; in particular, an order may provide for arrangements to be classified not according to their description by the parties but according to one or more indications of how they are treated, or are intended to be treated, in commercial practice.

(7) In this section "arrangements" includes arrangements which—

(a) are formed wholly or partly by one or more contracts or trusts;

(b) arise under or are wholly or partly governed by the law of a country or territory outside the United Kingdom;

(c) wholly or partly arise automatically as a matter of law;

(d) involve any number of parties;

(e) operate partly by reference to other arrangements between parties.

(8) An order—

(a) is to be made by statutory instrument, and

(b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

48Q Continuity

(1) A resolution instrument may provide for anything (including legal proceedings) that relates to anything affected by the instrument and is in the process of being done immediately before the instrument takes effect to be continued from the time the instrument takes effect.

(2) A resolution instrument may modify references (express or implied) in an instrument or document.

(3) A resolution instrument may require or permit any person to provide information and assistance to the Bank of England or another person, for the purposes of or in connection with provision made or to be made in that or another resolution instrument.

48R Execution and registration of instruments etc

(1) A resolution instrument may permit or require the execution, issue or delivery of an instrument.

(2) A resolution instrument may provide for any provision in the instrument to have effect irrespective of—

(a) whether an instrument has been produced, delivered, transferred or otherwise dealt with;

(b) registration.

(3) A resolution instrument may provide for the effect of an instrument executed, issued or delivered in accordance with the resolution instrument.

(4) A resolution instrument may—

(a) entitle a person to be registered in respect of a security;

(b) require a person to effect registration.

48S Resolution instruments: general matters

(1) Provision made in a resolution instrument takes effect despite any restriction arising by virtue of contract or legislation or in any other way.

(2) A resolution instrument may include incidental, consequential or transitional provision.

(3) In relying on subsection (2) a resolution instrument—

(a) may make provision generally or only for specified purposes, cases or circumstances, and

(b) may make different provision for different purposes, cases or circumstances.

48T Procedure

(1) As soon as is reasonably practicable after making a resolution instrument in respect of a bank the Bank of England must send a copy to—
  (a) the bank,
  (b) the Treasury,
  (c) the PRA,
  (d) the FCA, and
  (e) any other person specified in the code of practice under section 5.

(2) As soon as is reasonably practicable after making a resolution instrument the Bank of England must publish a copy—
  (a) on the Bank's internet website, and
  (b) in two newspapers, chosen by the Bank of England to maximise the likelihood of the instrument coming to the attention of persons likely to be affected.

(3) Where the Treasury receive a copy of a resolution instrument under subsection (1) they must lay a copy before Parliament.

48U Supplemental resolution instruments

(1) This section applies where the Bank of England has made a resolution instrument ("the original instrument") with respect to a bank.

(2) The Bank of England may make, with respect to the bank, one or more resolution instruments designated by the Bank of England as supplemental resolution instruments.

(3) Sections 7 and 8A do not apply to a supplemental resolution instrument (but it is to be treated in the same way as a resolution instrument for all other purposes, including for the purposes of the application of a power under this Part).

(4) Before making a supplemental resolution instrument the Bank of England must consult—
  (a) the PRA,
  (b) the FCA, and
  (c) the Treasury.

(5) The possibility of making a supplemental resolution instrument in reliance on subsection (2) is without prejudice to the possibility of making a new instrument in accordance with section 12A(2) (and not in reliance on subsection (2) above).

48V Onward transfer

(1) This section applies where the Bank of England has made a resolution instrument ("the original instrument") providing for securities issued by a specified bank to be transferred to any person.

(2) The Bank of England may make one or more onward transfer resolution instruments.

(3) An onward transfer resolution instrument is a resolution instrument which—
  (a) provides for the transfer of—
    (i) securities which were issued by the bank before the original instrument and have been transferred by the original instrument or a supplemental resolution instrument, or
    (ii) securities which were issued by the bank after the original instrument;
  (b) makes other provision for the purposes of, or in connection with, the transfer of securities issued by the bank (whether the transfer has been or is to be effected by that instrument, by another instrument or otherwise).

(4) An onward transfer resolution instrument may not transfer securities to the transferor under the original instrument.

(5) Sections 7 and 8A do not apply to an onward transfer resolution instrument (but it is to be treated in the same way as any other resolution instrument for all other purposes, including for the purposes of the application of a power under this Part).

(6) Before making an onward transfer resolution instrument the Bank of England must consult—
  (a) the PRA,
  (b) the FCA, and
  (c) the Treasury.

(7) Section 48U applies where the Bank of England has made an onward transfer resolution instrument.

48W Reverse transfer

(1) This section applies where the Bank of England has made an instrument ("the original instrument") that is either—
  (a) a resolution instrument providing for the transfer of securities issued by a bank to a person ("the transferee"), or
  (b) an onward transfer resolution instrument (see section 48V) providing for the transfer of securities issued by a bank to a person ("the onward transferee").

(2) In a case falling within subsection (1)(a) the Bank of England may make one or more reverse transfer resolution instruments in respect of securities issued by the bank and held by the transferee (whether or not they were transferred by the original instrument).

(3) In a case falling within subsection (1)(b), the Bank of England may make one or more reverse transfer resolution instruments in respect of securities issued by the bank and held by the onward transferee.

(4) A reverse transfer resolution instrument is a resolution instrument which—
  (a) provides for transfer to the transferor under the original instrument;

(b) makes other provision for the purposes of, or in connection with, the transfer of securities which are, or could be or could have been, transferred under paragraph (a).

(5) Except where subsection (6) applies, the Bank of England may make a reverse transfer resolution instrument under subsection (2) only with the written consent of the transferee.

(6) This subsection applies where the transferee is—

(a) a bail-in administrator, or

(b) a person who is not to be authorised to exercise any rights attaching to the securities except on the Bank of England's instructions.

(7) The Bank of England may make a reverse transfer resolution instrument under subsection (3) only with the written consent of the onward transferee.

(8) Sections 7 and 8A do not apply to a reverse transfer resolution instrument (but it is to be treated in the same way as any other resolution instrument for all other purposes including for the purposes of an application of a power under this Part).

(9) Before making a reverse transfer resolution instrument the Bank of England must consult—

(a) the PRA,

(b) the FCA, and

(c) the Treasury.

(10) Section 48U applies where the Bank of England has made a reverse transfer resolution instrument."

Transfers of property

5 (1) After section 41 insert—

"**41A Transfer of property subsequent to resolution instrument**

(1) This section applies where the Bank of England has made a resolution instrument.

(2) The Bank of England may make one or more property transfer instruments in respect of property, rights or liabilities of the bank.

(3) Sections 7 and 8A do not apply to a property transfer instrument under subsection (2).

(4) Before making a property transfer instrument under subsection (2) the Bank of England must consult—

(a) the PRA,

(b) the FCA, and

(c) the Treasury."

(2) In section 42 (supplemental property transfer instruments)—

(a) in subsection (1) for "12(2)" substitute "12(2) or 41A(2)";

(b) in subsection (4) for "and 8" substitute ", 8 and 8A";

(c) in subsection (6) for "or 12(2)" substitute ", 12(2) or 41A(2)".

(3) After section 44 insert—

"**44A Bail in: reverse property transfer**

(1) This section applies where the Bank of England has made a property transfer instrument in accordance with section 41A(2) ("the original instrument").

(2) The Bank of England may make one or more bail-in reverse property transfer instruments in respect of property, rights or liabilities of the transferee under the original instrument.

(3) A bail-in reverse property transfer instrument is a property transfer instrument which—

(a) provides for a transfer to the transferor under the original instrument;

(b) makes other provision for the purposes of, or in connection with, the transfer of property, rights or liabilities which are, or could be or could have been, transferred under paragraph (a) (whether the transfer has been or is to be effected by that instrument or otherwise).

(4) The Bank of England may make a bail-in reverse property transfer instrument only with the written consent of the transferee under the original instrument.

(5) Sections 7 and 8A do not apply to a bail-in reverse property transfer instrument (but it is to be treated in the same way as any other property transfer instrument for all other purposes, including for the purposes of the application of a power under this Part).

(6) Before making a bail-in reverse property transfer instrument the Bank of England must consult—

(a) the PRA,

(b) the FCA, and

(c) the Treasury.

(7) Section 42 (supplemental instruments) applies where the Bank of England has made a bail-in reverse property transfer instrument.

44B Property transfer instruments: special bail-in provision

(1) A property transfer instrument under section 12(2) or 41A(2), or an associated supplemental property transfer instrument, may make special bail-in provision with respect to the bank (see section 48B).

(2) The reference in subsection (1) to an "associated" supplemental property transfer instrument is to a supplemental property transfer instrument in relation to which the original instrument (as defined in section 42(1)) is a property transfer instrument under section 12(2) or 41A(2).

(3) In the case of a property transfer instrument under section 12(2), or a supplemental property transfer instrument in relation to which the original instrument is a property transfer instrument under section 12(2), the power under subsection (1) to make the provision described in section 48B(1)(b) (see also rule 3(a) and (b) of section 48B(5)) includes power to make

provision replacing a liability (of any form) of the bank mentioned in subsection (1) with a security (of any form or class) of the bridge bank mentioned in section 12(1).

(4) Where securities of the bridge bank ("B") are, as a result of subsection (3), held by a person other than the Bank of England, that does not prevent B from being regarded for the purposes of this Part (see particularly section 12(1)) as being wholly owned by the Bank of England, as long as the Bank of England continues to hold all the ordinary shares issued by B.

44C Report on special bail-in provision

(1) This section applies where the Bank of England makes a property transfer instrument containing provision made in reliance on section 44B.

(2) The Bank of England must report to the Chancellor of the Exchequer stating the reasons why that provision was made in the case of the liabilities concerned.

(3) If the provision departs from the insolvency treatment principles, the report must state the reasons why it does so.

(4) The insolvency treatment principles are that where an instrument includes special bail-in provision—

(a) the provision made by the instrument must be consistent with treating all the liabilities of the bank in accordance with the priority they would enjoy on a liquidation, and

(b) any creditors who would have equal priority on a liquidation are to bear losses on an equal footing with each other.

(5) A report must comply with any other requirements as to content that may be specified by the Treasury.

(6) A report must be made as soon as reasonably practicable after the making of the property transfer instrument to which it relates.

(7) The Chancellor of the Exchequer must lay a copy of each report under subsection (2) before Parliament."

(4) In section 48A (creation of liabilities), in subsection (1), after "44(4)(c)" insert ", 44A(3)(b)".

Compensation

6 (1) In section 49 (orders)—

(a) in subsection (1), for "three" substitute "four" and for "and property transfer instruments" substitute ", property transfer instruments and orders and resolution instruments";

(b) after subsection (2) insert—

"(2A) A "bail-in compensation order" is an order establishing a scheme for determining, in accordance with section 52A, whether any transferors or others should be paid compensation."

(2) In section 52 (transfer to bridge bank), in subsection (3)(b), for "specified classes of creditor," substitute "persons of a specified description,".

(3) After section 52 insert—

"**52A Bail-in option**

(1) Subsection (2) applies if the Bank of England makes—
(a) a resolution instrument under section 12A(2), or
(b) a property transfer instrument under section 41A(2).

(2) The Treasury must make a bail-in compensation order (see section 49(2A)).

(3) A bail-in compensation order may include provision for—
(a) an independent valuer (in which case sections 54 to 56 are to apply);
(b) valuation principles (in which case section 57(2) to (5) is to apply)."

(4) In section 53 (onward and reverse transfers), in subsection (1)—
(a) before paragraph (za) insert—
"(zza) the Bank of England makes a supplemental share transfer instrument under section 26,";
(b) after paragraph (za) insert—
"(zb) the Treasury makes a supplemental share transfer order under section 27,";
(c) after paragraph (d) insert—
"(dza) the Bank of England makes a supplemental property transfer instrument under section 42,";
(d) after paragraph (f) insert—
"(fa) the Bank of England makes a reverse property transfer instrument under section 44A(2),";
(e) omit the "or" after paragraph (g);
(f) after paragraph (h) insert—
"(i) the Bank of England makes a supplemental resolution instrument under section 48U,
(j) the Bank of England makes an onward transfer resolution instrument under section 48V(2), or
(k) the Bank of England makes a reverse transfer resolution instrument under section 48W(2) or (3).";
(g) in the heading, after "**transfers**" insert "**etc**".

(5) In section 54 (independent valuer)—
(a) in subsection (1), after "compensation scheme order" insert "or bail-in compensation order";
(b) in subsection (4)(b), after "order" insert "or bail-in compensation order".

(6) In section 56 (independent valuer: money), in subsection (2)(b) for "or third party compensation order" substitute ", third party compensation order or bail-in compensation order".

(7) In section 57 (valuation principles), in subsection (1), after "order" insert "or bail-in compensation order".

(8) After section 60 insert—

"**60A Further mandatory provision: bail-in provision**

(1) The Treasury may make regulations about compensation arrangements in the case of—

(a) resolution instruments under section 12A(2) and supplemental resolution instruments under section 48U(2), and

(b) instruments (made under any provision) that include special bail-in provision.

(2) Regulations may—

(a) require a resolution fund order, a compensation scheme order, a third party compensation order or a bail-in compensation order to include provision of a specified kind or to specified effect;

(b) make provision that is to be treated as forming part of any such order (whether (i) generally, (ii) only if applied, (iii) unless disapplied, or (iv) subject to express modification).

(3) Regulations may provide for whether compensation is to be paid, and if so what amount is to be paid, to be determined by reference to any factors or combination of factors; in particular, the regulations may provide for entitlement—

(a) to depend in part upon the amounts which are or may be payable under a resolution fund order;

(b) to be contingent upon the occurrence or non-occurrence of specified events;

(c) to be determined wholly or partly by an independent valuer (within the meaning of sections 54 to 56) appointed in accordance with a compensation scheme order or bail-in compensation order.

(4) Regulations may make provision about payment including, in particular, provision for payments—

(a) on account subject to terms and conditions;

(b) by instalment.

(5) Regulations—

(a) are to be made by statutory instrument, and

(b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

60B Principle of no less favourable treatment

(1) In making regulations under section 60A the Treasury must, in particular, have regard to the desirability of ensuring that pre-resolution shareholders and creditors of a bank do not receive less favourable treatment than they would have received had the bank entered insolvency immediately before the coming into effect of the initial instrument.

(2) References in this section to the initial instrument are—

(a) in relation to compensation arrangements in the case of property transfer instruments under section 12(2), to the first instrument to be made under that provision with respect to the bank;

(b) in relation to compensation arrangements in other cases, to the first resolution instrument to be made under section 12A with respect to the bank.

(3) The "pre-resolution shareholders and creditors" of a bank are the persons who held securities issued by the bank, or were creditors of the bank, immediately before the coming into effect of the initial instrument.

(4) References in this section to insolvency include a reference to (i) liquidation, (ii) bank insolvency, (iii) administration, (iv) bank administration, (v) receivership, (vi) composition with creditors, and (vii) a scheme of arrangement."

(9) In section 61(1) (sources of compensation),—

(a) omit the "and" at the end of paragraph (c);

(b) after paragraph (c) insert—

"(ca) bail-in compensation orders,";

(c) after paragraph (d) insert, ", and

"(e) regulations under section 60A."

(10) In section 62(1) (procedure), omit the "and" at the end of paragraph (b), and after that paragraph insert—

"(ba) bail-in compensation orders, and".

Groups

7 (1) After section 81B insert—

"**81BA Bail-in option**

(1) The Bank of England may exercise a stabilisation power in respect of a banking group company in accordance with section 12A(2) if the following conditions are met.

(2) Condition 1 is that the PRA is satisfied that the general conditions for the exercise of a stabilisation power set out in section 7 are met in respect of a bank in the same group.

(3) Condition 2 is that the Bank of England is satisfied that the exercise of the power in respect of the banking group company is necessary, having regard to the public interest in—

(a) the stability of the financial systems of the United Kingdom,

(b) the maintenance of public confidence in the stability of those systems,

(c) the protection of depositors, or

(d) the protection of any client assets that may be affected.

(4) Condition 3 is that the banking group company is an undertaking incorporated in, or formed under the law of any part of, the United Kingdom.

(5) Before determining whether Condition 2 is met, and if so how to react, the Bank of England must consult—
  (a) the Treasury,
  (b) the PRA, and
  (c) the FCA.

(6) In exercising a stabilisation power in reliance on this section the Bank of England must have regard to the need to minimise the effect of the exercise of the power on other undertakings in the same group."

(2) After section 81C insert—

"**81CA Section 81BA: supplemental**

(1) This section applies where the Bank of England has power under section 81BA to exercise a stabilisation power in respect of a banking group company.

(2) The provisions relating to the stabilisation powers and the bank administration procedure contained in this Act (except sections 7 and 8A) and any other enactment apply (with any necessary modifications) as if the banking group company were a bank.

(3) Where the banking group company mentioned in subsection (1) is a parent undertaking of the bank mentioned in section 81BA(2) ("the bank")—
  (a) the provisions in this Act relating to resolution instruments are to be read in accordance with the general rule in subsection (4), but
  (b) that is subject to the modifications in subsection (5);

  and provisions in this Act and any other enactment are to be read with any modifications that may be necessary as a result of paragraphs (a) and (b).

(4) The general rule is that the provisions in this Act relating to resolution instruments (including supplemental resolution instruments) are to be read (so far as the context permits)—
  (a) as applying in relation to the bank as they apply in relation to the parent undertaking, and
  (b) so, in particular, as allowing any provision that may be made in a resolution instrument in relation to the parent undertaking to be made (also or instead) in relation to the bank.

(5) Where the banking group company mentioned in subsection (1) is a parent undertaking of the bank mentioned in section 81BA(2) ("the bank")—
  (a) section 41A (transfer of property subsequent to resolution instrument) applies as if the reference in subsection (2) to the bank were to the parent undertaking, the bank and any other bank which is or was in the same group;
  (b) section 48V (onward transfer)—
    (i) applies as if the references in subsection (3) to "the bank" included the bank, the parent undertaking and any other bank which is or was in the same group, and with the omission of subsection (4) of that section, and

(ii) is to be read as permitting the transfer of securities only if they are held by (or for the benefit of) the parent undertaking or a subsidiary company of the parent undertaking;

(c) section 48W (reverse transfer) applies as if the references in subsections (2) and (3) to "the bank" included the bank, the parent undertaking and any other bank which is or was in the same group.

(6) Where section 48B (special bail-in provision) applies in accordance with subsection (4) (so that section 48B applies in relation to the bank mentioned in section 81BA(2) as it applies in relation to the parent undertaking mentioned in subsection (3)), the provision that may be made in accordance with section 48B(1)(b) (see also rule 3(a) and (b) of section 48B(5)) includes provision replacing a liability (of any form) of that bank with a security (of any form or class) of the parent undertaking.

(7) Where the banking group company mentioned in subsection (1) is a parent undertaking of the bank mentioned in section 81BA(2)—

(a) section 214B of the Financial Services and Markets Act 2000 (contribution to costs of special resolution regime) applies, and

(b) the reference in subsection (1)(b) of that section to the bank, and later references in that section, are treated as including references to any other bank which is a subsidiary undertaking of the parent undertaking (but not the parent undertaking itself)."

(3) In section 81D (interpretation: "banking group company" etc)—

(a) in subsection (6), for ", 81C" substitute "to 81CA";

(b) in subsection (7) for "section 81B" substitute "sections 81B to 81CA".

Banks regulated by the Financial Conduct Authority

8 In section 83A (modifications of Part 1 as it applies to banks not regulated by the Prudential Regulation Authority), in the table in subsection (2) insert the following entries at the appropriate places—

"Section 8A	Subsection (3)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorised person.""
""Section 41A	Subsection (4)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorised person.""
""Section 44A	Subsection (6)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorised person.""
""Section 48H	Subsection (5)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorised person.

Section 48U	Subsection (4)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorised person.
Section 48V	Subsection (6)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorised person.
Section 48W	Subsection (9)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorised person.””
““Section 81BA	Subsection (5)(b) does not apply unless the bank has as a member of its immediate group a PRA-authorised person.”

Recognised central counterparties

9 In section 89B (application of Part 1 of the Act to recognised central counterparties)—

(a) in subsection (1), before paragraph (a) insert—

“(za) subsection (1A),”;

(b) after subsection (1) insert—

“(1A) The provisions relating to the third stabilisation option (bail-in) are to be disregarded in the application of this Part to recognised central counterparties.”;

(c) in subsection (2), in the substituted section 13(1), for “third” substitute “fourth”.

Insolvency proceedings

10 In section 120 (notice to Prudential Regulation Authority of preliminary steps to certain insolvency proceedings)—

(a) in subsection (7)(b)(ii), after “Part 1” insert “(and Condition 5 has been met, if applicable)”;

(b) after subsection (8) insert—

“(8A) Condition 5—

(a) applies only if a resolution instrument has been made under section 12A with respect to the bank in the 3 months ending with the date on which the PRA receives the notification under Condition 1, and

(b) is that the Bank of England has informed the person who gave the notice that it consents to the insolvency procedure to which the notice relates going ahead.”;

(c) in subsection (10), omit the “and” at the end of paragraph (b), and after paragraph (c) insert “, and

(d) if Condition 5 applies, the Bank of England must, within the period in Condition 3(a), inform the person who gave the notice whether or not it consents to the insolvency procedure to which the notice relates going ahead.”;

(d) after subsection (10) insert—

"(11) References in this section to the insolvency procedure to which the notice relates are to the procedure for the determination, resolution or appointment in question (see subsections (1) to (4))."

State aid

11 After section 256 insert—

"State aid

256A State aid

(1) This section applies where—

(a) the Treasury are of the opinion that anything done, or proposed to be done, in connection with the exercise in relation to an institution of one or more of the stabilisation powers may constitute the granting of aid to which any of the provisions of Article 107 or 108 of the Treaty on the Functioning of the European Union applies ("State aid"), and

(b) section 145A (power to direct bank administrator) does not apply.

(2) The Treasury may, in writing, direct any bail-in administrator, or any director of the institution, to take specified action to enable the United Kingdom to pursue any of the purposes specified in subsection (3) of section 145A (read with subsection (9) of that section).

(3) Before giving a direction under this section the Treasury must consult the person to whom the direction is to be given.

(4) The person must comply with the direction within the period of time specified in the direction, or, if no period of time is specified, as soon as is reasonably practicable.

(5) A direction under this section is enforceable on an application made by the Treasury, by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

(6) A direction under this section may specify circumstances in which the person given the direction is immune from liability in damages.

(7) Immunity by virtue of subsection (6) does not extend to action—

(a) in bad faith, or

(b) in contravention of section 6(1) of the Human Rights Act 1998.

(8) Where a direction under this section is given to a director of the institution, the director is not to be regarded as failing to comply with any duty owed to any person (for example, a shareholder, creditor or employee of the institution) by virtue of any action in compliance with the direction."

Other amendments of the Act

12 (1) Section 1 (overview) is amended as follows.

(2) In subsection (2)(a), for "three" substitute "four".

(3) For subsection (3) substitute—

"(3) The four "stabilisation options" are—

(a) transfer to a private sector purchaser (section 11),

(b) transfer to a bridge bank (section 12),

(c) the bail-in option (section 12A), and

(d) transfer to temporary public ownership (section 13)."

(4) In subsection (4)—

(a) for "three" substitute "four";

(b) before paragraph (a) insert—

"(za) the resolution instrument powers (sections 12A(2) and 48U to 48W),";

(c) in paragraph (b), after "33" insert ", 41A".

13 In section 13 (temporary public ownership), in subsection (1), for "third" substitute "fourth".

14 In section 17 (share transfers: effect)—

(a) in subsection (1), after "order" insert, "or by a resolution instrument";

(b) in subsection (5), after "order" insert "or a resolution instrument";

(c) in subsection (6), after "order" insert "or a resolution instrument".

15 In section 18 (share transfers: continuity), after subsection (5) insert—

"(6) This section applies to a resolution instrument as it applies to a share transfer instrument; and in relation to a resolution instrument references in this section to a "transfer" are to a transfer of securities (whether made by that or another resolution instrument) and "transferor" and "transferee" are to be read accordingly."

16 In section 44 (reverse property transfer)—

(a) in subsection (2), after "more" insert "bridge bank";

(b) in subsection (3), after "more" insert "bridge bank";

(c) in subsection (4), for "A reverse" substitute "A bridge bank reverse";

(d) in subsection (4A)—

(i) after "make a" insert "bridge bank", and

(ii) in paragraph (b), for "the reverse" substitute "the bridge bank reverse";

(e) in subsection (5), for "a reverse" substitute "a bridge bank reverse";

(f) in subsection (6), for "a reverse" substitute "a bridge bank reverse";

(g) in subsection (7), for "a reverse" substitute "a bridge bank reverse";

(h) in the heading, for "**Reverse**" substitute "**Bridge bank: reverse**".

17 In section 63 (general continuity obligation: property transfers), in subsection (1)(a), for "or 12(2)" substitute ", 12(2) or 41A(2)".

18 In section 66 (general continuity obligation: share transfers)—

(a) in subsection (1)(a), after "13(2)" insert ", or which falls within subsection (1A)";

(b) in subsection (1)(d)(i), after "11(2)(a)" insert ", or in a case falling within subsection (1A)";

(c) after subsection (1) insert—

"(1A) A bank falls within this subsection if a resolution instrument (or supplemental resolution instrument) has changed the ownership of the bank (wholly or partly) by providing for the transfer, cancellation or conversion from one form or class to another of securities issued by the bank (and the reference in subsection (1)(b) to "the transfer" includes such a cancellation or conversion)."

19 In section 67 (special continuity obligation: share transfers), in subsection (4)(c), after "order" insert "or resolution instrument".

20 In section 68 (continuity obligations: onward share transfers), in subsection (1)(a), after "transferred by" insert "a resolution instrument under section 12A(2) or supplemental resolution instrument under section 48U(2) or a".

21 In section 71 (pensions), in subsection (1)—

(a) omit the "and" at the end of paragraph (b);

(b) after paragraph (c) insert ", and

(d) resolution instruments."

22 In section 72 (enforcement), in subsection (1)—

(a) omit the "or" at the end of paragraph (b);

(b) after paragraph (c) insert ", or

(d) a resolution instrument."

23 In section 73 (disputes), in subsection (1)—

(a) omit the "and" at the end of paragraph (b);

(b) after paragraph (c) insert ", and

(d) resolution instruments."

24 In section 74 (tax), in subsection (6), for "or 45" substitute ", 45, 48U or 48V".

25 After section 80 insert—

"**80A Transfer for bail-in purposes: report**

(1) This section applies where the Bank of England makes one or more resolution instruments under section 12A(2) in respect of a bank.

(2) The Bank of England must, on request by the Treasury, report to the Chancellor of the Exchequer about—

(a) the exercise of the power to make a resolution instrument under section 12A(2),

(b) the activities of the bank, and

(c) any other matters in relation to the bank that the Treasury may specify.

(3) In relation to the matters in subsection (2)(a) and (b), the report must comply with any requirements that the Treasury may specify.

(4) The Chancellor of the Exchequer must lay a copy of each report under subsection (2) before Parliament."

26 In section 81A (accounting information to be included in reports under sections 80 and 81)—

(a) in subsection (1), for "or 81" substitute ", 80A(2)(b) or 81";

(b) in the heading, for "**and 81**" substitute "**, 80A(2)(b) and 81**".

27 In section 85 (temporary public ownership), in subsection (1), for "third" substitute "fourth".

28 In section 136 (overview), in the Table in subsection (3), for "152" substitute "152A".

29 After section 152 insert—

"**152A Property transfer from transferred institution**

(1) This section applies where the Bank of England—

(a) makes a resolution instrument that transfers securities issued by a bank (or a bank's parent undertaking), in accordance with section 12A(2), and

(b) later makes a property transfer instrument from the bank or from another bank which is or was in the same group as the bank, in accordance with section 41A(2).

(2) This Part applies to the transferor under the property transfer instrument made in accordance with section 41A(2) as to the transferor under a property transfer instrument made in accordance with section 12(2).

(3) For that purpose this Part applies with any modifications specified by the Treasury in regulations; and any regulations—

(a) are to be made by statutory instrument, and

(b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament."

30 In section 220 (insolvency etc), after subsection (4) insert—

"(4A) The fact that ownership of an authorised bank is transferred or otherwise changed as a result of a resolution instrument (or an instrument treated as a resolution instrument) does not itself prevent the bank from relying on section 213."

31 In section 259 (statutory instruments)—

(a) in the Table in subsection (3), in Part 1, in the entry relating to section 60 for "Third party compensation" substitute "Third party compensation: partial property transfers";

(b) in the Table in subsection (3), in Part 1, at the appropriate places insert—

"48F(1) and (2)	Power to amend definition of "excluded liabilities"	Draft resolution	affirmative
48G	Insolvency treatment principles	Draft resolution	affirmative
48P	Safeguarding of certain financial arrangements	Draft resolution	affirmative
52A	Bail-in compensation orders	Draft resolution""	affirmative

""60A	Third party compensation: instruments containing special bail-in provision	Draft affirmative resolution";

(c) in the Table in subsection (3), in Part 3, at the appropriate place insert—

"152A	Property transfer from transferred institution	Draft affirmative resolution";

(d) in subsection (5), after paragraph (d) insert—

"(da) section 60A (special resolution regime: instruments containing special bail-in provision),";

(e) in subsection (5), after paragraph (k) insert—

"(ka) section 152A (bank administration: property transfer from transferred institution),".

32 In section 261 (index of defined terms), in the Table, at the appropriate places insert—

"Bail-in compensation order	49""
""Resolution instrument	12A""
""Special bail-in provision	48B".

PART 2

MODIFICATION OF INVESTMENT BANK SPECIAL ADMINISTRATION REGULATIONS 2011

33 (1) This paragraph modifies the application of the Investment Bank Special Administration Regulations 2011 (S.I. 2011/245) ("the regulations") in cases where a resolution instrument has been made under section 12A of the Banking Act 2009 with respect to the investment bank in the relevant 3-month period.

(2) In sub-paragraph (1) "the relevant 3-month period" means the 3 months ending with the date on which the FCA receives the notification under Condition 1 in regulation 8 of the regulations.

(3) In their application to those cases, the regulations have effect with the modifications in sub-paragraph (4); and any enactment that refers to the regulations is to be read accordingly.

(4) In regulation 8 (in its application to those cases)—

(a) in paragraph (5)(c)(ii), for "appropriate regulator" substitute "Bank of England" and after "notice" insert "and the appropriate regulator";

(b) in paragraph (6), omit sub-paragraph (a) (but continue to read "that" in sub-paragraph (b) as a reference to the insolvency procedure to which the notice relates);

(c) after paragraph (6) insert—

"(6A) Where the FCA receives notice under Condition 1, it must also inform the Bank of England of the contents of the notice.

(6B) Where the Bank of England receives notice under paragraph (6A), it must, within the period in Condition 3, inform the person who gave the notice and the appropriate regulator whether or not it consents to the insolvency procedure to which the notice relates going ahead."