STATUTORY INSTRUMENTS

2016 No. 1239

The Bank Recovery and Resolution Order 2016

PART 2

Amendments of the Banking Act 2009 and related provision

CHAPTER 1

Amendments of the Banking Act 2009

Introduction to amendments of the Banking Act 2009

2. The Banking Act 2009(**1**) is amended in accordance with this Part.

Overview

3. In the Table in section 1(6), in the first column of the entry for sections 48B to 48W, for "48W" substitute "48WA".

Interpretation of Part 1 of the Banking Act 2009

4. In section 3 (interpretation: other expressions)(**2**) after subsection (2) insert—

"(3) In this Part references to a director include, in relation to an undertaking which has no board of directors, a member of the equivalent management body responsible for the management of the undertaking concerned.".

Removal of impediments to the exercise of the stabilisation powers etc

5. In section 3A(8) (removal of impediments to the exercise of stabilisation powers etc)(**3**), in the definition of "institution", after "a bank" insert ", building society (within the meaning of section 119 of the Building Societies Act 1986(**4**))".

Cases where mandatory write-down, conversion etc applies

6. In section 6A(6)(b) (cases where mandatory write-down, conversion etc applies)(**5**) omit ", on the basis of the valuation carried out in accordance with section 6E,".

(**1**) 2009 c.1.
(**2**) Section 3 has been amended by section 96 of, and paragraphs 1 and 4 of Schedule 17 to, the Financial Services Act 2012 (c.21); and by S.I. 2014/3329.
(**3**) Section 3A was inserted by S.I. 2014/3329.
(**4**) 1986 c 53.
(**5**) Section 6A was inserted by S.I. 2014/3329.

General conditions

7. In section 7(5C) (general conditions)(**6**)—

(a) in paragraph (b), for the words from "determined", in the first place it occurs, to the end substitute "is less than the amount of its liabilities,";

(b) in paragraph (d), for "one or more of paragraphs (a) to (c)" substitute "paragraph (b) or (c) (or both)".

Private sector purchasers

8. After section 11 (private sector purchaser), insert—

"**Private sector purchaser: marketing**

11A.—(1) Subject to subsection (4), the Bank of England must make arrangements for marketing—

(a) any securities issued by the bank which the Bank intends to transfer by a share transfer instrument under section 11(2)(a), or

(b) any property, rights or liabilities of the bank which the Bank intends to transfer by a property transfer instrument under section 11(2)(b).

(2) The arrangements under subsection (1) must—

(a) be as transparent as possible having regard to the circumstances and the need to maintain financial stability;

(b) ensure there is no conflict of interest;

(c) take account of the need for the Bank to act quickly to address the situation where a bank is failing or likely to fail;

(d) aim at maximising, as far as possible, the sale price for the securities or property, rights or liabilities involved.

(3) The arrangements under subsection (1) must not—

(a) materially misrepresent the securities or property, rights or liabilities which the Bank intends to transfer;

(b) favour or discriminate between potential purchasers or grant an unfair advantage to a potential purchaser.

(4) Subsection (1) does not apply if the Bank of England considers that complying with that subsection would undermine one or more of the special resolution objectives.

(5) In particular subsection (1) does not apply if the Bank considers that—

(a) there is a material threat to financial stability in the United Kingdom or another EEA state arising from or aggravated by the failure or likely failure of the bank, and

(b) complying with subsection (1) would undermine the effectiveness of the first stabilisation option in addressing that threat or achieving the objective in section 4(4).

(7) Any public disclosure of the marketing which may be required under Article 17(1) of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April

(**6**) Subsection (5C) was substituted, with subsections (1) to (5H), by S.I. 2014/3329.

2014 on market abuse(**7**) may be delayed in accordance with Article 17(4) or (5) of that Regulation.”.

Onward transfers

9.—(1) After section 26 (supplemental instruments)(**8**), insert—

“**Onward share transfer instruments**

26ZA.—(1) This section applies where the Bank of England has made a share transfer instrument, in respect of securities issued by a bank, in accordance with section 12(2) (“the original instrument”).

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

(3) An onward share transfer instrument is a share transfer 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 share transfer 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 share transfer instrument or otherwise).

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

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

(6) Before making an onward share transfer instrument the Bank must consult—

(a) the PRA,

(b) the FCA, and

(c) the Treasury.

(7) Section 26 applies where the Bank of England has made an onward share transfer instrument.”

(2) In the table in section 83A (modifications of Part), after the entry for section 26, insert—

“Section 26ZA	Subsection (6)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorised person.”

Reverse share transfers

10.—(1) In section 26A (private sector purchaser: reverse share transfer)(**9**)—

(a) in subsection (1), after “11(2)” insert “or 12(2)”,

(**7**) OJ L 173, p. 1.
(**8**) Section 26 was amended by paragraphs 1 and 14 of Schedule 17 to the Financial Services Act 2012 (c.21), and by S.I. 2014/3329.
(**9**) Section 26A was inserted by section 97 of the Financial Services Act 2012 (c.21)..

(b) in subsections (2) to (7), omit the words "private sector" wherever they appear,

(c) after subsection (2) insert—

"(2A) If the Bank of England makes an onward share transfer instrument in respect of securities transferred by the original instrument, the Bank may make one or more reverse share transfer instruments in respect of securities issued by the bank and held by a transferee under the onward share transfer instrument ("the onward transferee").",

(d) in subsection (3)—

(i) at the end of paragraph (a) insert "(where subsection (2) applies)",

(ii) after paragraph (a) insert—

"(ab) provides for transfer to the original transferee (where subsection (2A) applies);",

(iii) in paragraph (b), after "paragraph (a)" insert "or (ab)",

(e) in subsection (4), after "instrument" insert "under subsection (2)",

(f) after subsection (4) insert—

"(4A) The Bank of England must not make a reverse share transfer instrument under subsection (2A) unless—

(a) the onward transferee is—

(i) a company wholly owned by the Bank of England,

(ii) a company wholly owned by the Treasury, or

(iii) a nominee of the Bank of England or the Treasury, or

(b) the reverse share transfer instrument is made with the written consent of the onward transferee.",

(g) in the heading—

(i) omit "Private sector purchaser:",

(ii) at the end, insert "instruments".

(2) In the heading to section 29, insert at the end "orders".

Property transfer instruments: special bail-in provision

11.—(1) Section 44B (property transfer instruments: special bail-in provision)(**10**) is amended as follows.

(2) For subsections (1) to (3) substitute—

"(1) A property transfer instrument within subsection (2) may make special bail-in provision with respect to the bank (see section 48B)(**11**).

(2) The instruments referred to in subsection (1) are—

(a) a property transfer instrument under section 11(2), 12(2), 12ZA(3)(**12**) or 41A(2)(**13**),

(b) a supplemental property transfer instrument under section 42 in relation to which the original instrument is—

(**10**) Section 44B was inserted by paragraph 5 to Schedule 2 to the Financial Services (Banking Reform) Act 2013 (c.24), and amended by S.I. 2014/3329.

(**11**) Section 48B was inserted by paragraph 4 of Schedule 2 to the Financial Services (Banking Reform) Act 2013 and amended by S.I. 2014/3329.

(**12**) Section 12ZA was inserted by S.I. 2014/3329.

(**13**) Section 41A was inserted by paragraphs 1 and 5 of Schedule 2 to the Financial Services (Banking Reform) Act 2013.

(i) a property transfer instrument under section 11(2), 12(2), 12ZA(3) or 41A(2),

(ii) an onward property transfer instrument under section 43(2), or

(iii) a bridge bank supplemental property transfer instrument under section 44D(2),

(c) an onward property transfer instrument under section 43(2), or

(d) a bridge bank supplemental property transfer instrument under section 44D(2)(**14**).

(3) In the case of—

(a) a property transfer instrument under section 12(2) or 12ZA(3),

(b) a supplemental property transfer instrument under section 42 in relation to which the original instrument is—

(i) a property transfer instrument under section 12(2) or 12ZA(3),

(ii) an onward property transfer instrument under section 43(2), or

(iii) a bridge bank supplemental property transfer instrument under section 44D(2),

(c) an onward property transfer instrument under section 43(2), or

(d) a bridge bank supplemental property transfer instrument under section 44D(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 the provision referred to in subsection (3A).

(3A) The provision referred to in subsection (3) is provision replacing a liability (of any form)—

(a) of the bank, in the case of the instruments within subsection (3)(a) and (b)(i),

(b) of the resolution company mentioned in section 43(1), in the case of the instruments within subsections (3)(b)(ii) and (c), or

(c) of the bridge bank mentioned in section 44D(1), in the case of the instruments within subsections (3)(b)(iii) and (d),

with a relevant security (of any form or class).

(3B) The following are relevant securities for the purpose of subsection (3A)—

(a) in any case, a security of the bank,

(b) where the instrument within subsection (3)(a), or the original instrument, is made under section 12, a security of the bridge bank mentioned in section 12(1),

(c) where the instrument within subsection (3)(a), or the original instrument, is made under section 12ZA, a security of the asset management vehicle mentioned in section 12ZA(1).

(3C) In subsection (3B) references to the original instrument are—

(a) in relation to an instrument within subsection (3)(b), the original instrument referred to in that paragraph,

(b) in relation to an instrument within subsection (3)(c), the original instrument as defined in section 43(1),

(**14**) Section 44D is inserted by article 13 of this Order.

(c) in relation to an instrument with subsection (3)(d), the original instrument as defined in section 44D(1).”

(3) In subsection (4), after “bridge bank” insert “or asset management vehicle”.

Property transfer instruments and bail-in: supplementary matters

12.—(1) After section 44B (property transfer instruments: special bail-in provision), insert—

“**Property transfer instruments and special bail-in provision: supplementary matters**

44BA.—(1) The following provisions apply in relation to a property transfer instrument which makes special bail-in provision under section 44B(1) as they apply in relation to a resolution instrument—

(a) section 48L (powers in relation to securities)(**15**);

(b) section 48O (power to direct directors of the bank);

(c) section 48Q (continuity);

(d) section 48R (execution and registration of instruments);

(e) section 48S (resolution instruments: general matters);

(f) section 48U (supplemental resolution instruments).

(2) In sections 6E(4)(a)(iii)(**16**), 48B, 48X(2)(b)(ii)(**17**) and 48Y(1)(a) and (2)(a) a reference to a resolution instrument includes a reference to a property transfer instrument which makes special bail-in provision under section 44B(1).

(3) Where special bail-in provision is being made in—

(a) a supplemental property transfer instrument under section 42 in relation to which the original instrument is an onward property transfer instrument under section 43(2), or

(b) an onward property transfer instrument under section 43(2),

references in sections 48B (except in subsection (9)), 48L, 48O and 48U to a bank include a resolution company (whether or not it is a bank).

(4) Where subsection (3) applies, the references in section 48B(3) and (9) to a banking group company, or to a banking group company in relation to a bank, are to a banking group company in relation to the bank in respect of which the Bank of England originally exercised a stabilisation power (and not to a banking group company in relation to the resolution company).”

Resolution company: asset and liability transfers from subsidiary banks

13.—(1) After section 44C (report on special bail-in provision)(**18**) insert—

“**Bridge bank: supplemental property transfer powers**

44D.—(1) This section applies where the Bank of England has made a share transfer instrument in accordance with section 12(2) (“the original instrument”) providing for the transfer of securities issued by a bank (“the bank”) to a bridge bank.

(**15**) Section 48L was inserted, with sections 48B to 48W, by paragraph 4 of Schedule 2 to the Financial Services (Banking Reform) Act 2013.
(**16**) Section 6E was inserted by S.I. 2014/3329.
(**17**) Section 48X was inserted, with section 48Y by S.I. 2014/3329.
(**18**) Section 44C was inserted by paragraphs 1 and 5 of Schedule 2 to the Financial Services (Banking Reform) Act 2013.

(2) The Bank of England may make one or more property transfer instruments in relation to the bank ("bridge bank supplemental property transfer instruments").

(3) A bridge bank supplemental property transfer instrument is an instrument which—

(a) provides for property, rights or liabilities of the bank to be transferred (whether accruing or arising before or after the original instrument);

(b) makes other provision for the purposes of, or in connection with, the transfer of property, rights or liabilities of the bank (whether the transfer has been or is to be effected by the instrument or otherwise).

(4) Sections 7 and 8 do not apply to a bridge bank supplemental 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).

(5) Before making a bridge bank supplemental property transfer instrument the Bank of England must consult—

(a) the PRA,

(b) the FCA, and

(c) the Treasury.

(6) The possibility of making a bridge bank supplemental property transfer instrument in reliance on subsection (2) is without prejudice to the possibility of making a property transfer instrument in accordance with section 12(2) (and not in reliance on subsection (2) above).

(7) Section 42 applies where the Bank of England has made a bridge bank supplemental property transfer instrument.

Bridge bank: supplemental reverse property transfer powers

44E.—(1) This section applies where the Bank of England has made a bridge bank supplemental property transfer instrument in accordance with section 44D ("the original instrument").

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

(3) A bridge bank supplemental reverse property transfer instrument is an 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 property, rights or liabilities which are, 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) Sections 7 and 8 do not apply to a bridge bank supplemental 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).

(5) The Bank of England must not make a bridge bank supplemental reverse property transfer instrument unless—

(a) the transferee under the original instrument is—

(i) a company wholly owned by the Bank of England,

(ii) a company wholly owned by the Treasury, or

(iii) a nominee of the Treasury, or

(b) it is made with the written consent of the transferee under the original instrument.

(6) Before making a bridge bank supplemental reverse property transfer instrument the Bank of England must consult—

(a) the PRA,

(b) the FCA, and

(c) the Treasury.

(7) Section 42 applies where the Bank of England has made a bridge bank supplemental reverse property transfer instrument.".

(2) In section 48A(1) (creation of liabilities)(**19**) after "44A(3)(b)," insert "44D(3)(b), 44E(3)(b),".

(3) In section 63(1) (general continuity obligation: property transfers), in paragraph (a), for "or 41A(2)" substitute ", 41A(2) or 44D(2)".

(4) In the table in section 83A (modifications of Part), after the entry for section 44A, insert—

"Section 44D	Subsection (5)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorised person.
Section 44E	Subsection (6)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorised person."

Recovery of expenses

14. After section 48W (reverse transfer), insert—

"**Bail-in option: recovery of expenses**

48WA.—(1) The Bank of England may, in relation to the exercise of the bail-in option, direct a relevant bank to pay the Bank of England a fee to cover expenses reasonably incurred by the Bank in connection with exercising that option.

(2) The Treasury may direct a relevant bank to pay the Treasury a fee to cover expenses reasonably incurred by the Treasury in connection with the exercise by the Bank of England of the bail-in option in relation to the relevant bank.

(3) For the purposes of this section—

(a) a "relevant bank" is a bank in relation to which the Bank of England has made—

(i) a resolution instrument under section 12A(2),

(ii) a supplemental resolution instrument under section 48U(2), or

(iii) an instrument containing special bail-in provision under section 48B,

(b) the exercise of the bail-in option includes making any instrument containing special bail-in provision under section 48B.".

Termination rights etc

15.—(1) Section 48Z (termination rights etc)(**20**) is amended as follows.

(**19**) Section 48A was inserted by section 21 of the Financial Services Act 2010 (c.28), and amended by section 97 of the Financial Services Act 2012, and paragraph 1 and 5 of Schedule 2 to the Financial Services (Banking Reform) Act 2013.
(**20**) Section 48Z was inserted by S.I. 2014/3329.

(2) In subsection (1), in the definition of "crisis prevention measure"—

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

(b) at the end of paragraph (d), insert—

", or

(e) the appointment by the PRA or the FCA of a person to act as a temporary manager under section 71C of the Financial Services and Markets Act 2000(**21**);".

(3) In subsection (5), for "Subsection" substitute "Subject to subsection (6A), subsection".

(4) After subsection (6) insert—

"(6A) A Part 1 instrument or share transfer order may provide for subsection (6)—

(a) not to apply in relation to a contract or other agreement, or

(b) to apply in relation to a contract or other agreement only to the extent specified by the Bank of England in the instrument or by the Treasury in the order.

(6B) Provision may be made under subsection (6A) only if the Bank of England (in the case of a Part 1 instrument) or the Treasury (in the case of a share transfer order) consider that such provision would advance one or more of the special resolution objectives.".

Onward and reverse transfers

16. In section 53(1) (onward and reverse transfers)(**22**)—

(a) after paragraph (zza) insert—

"(zzb) the Bank of England makes an onward share transfer instrument under section 26ZA,";

(b) in paragraph (za) omit the words "private sector";

(c) after paragraph (fa) insert—

"(fb) the Bank of England makes a bridge bank supplemental property transfer instrument under section 44D,

(fc) the Bank of England makes a bridge bank supplemental reverse property transfer instrument under section 44E,".

Independent valuation

17.—(1) Section 62A (independent valuer: valuation under section 6E or 48X)(**23**) is amended as follows.

(2) After subsection (1) insert—

"(1A) The Bank may require the bank to which the valuation relates to reimburse the Bank for costs it incurs in relation to the independent valuer (including remuneration and allowances paid to the valuer and the valuer's staff).".

(3) In subsection (6)—

(a) for "Sections" substitute "Section";

(b) omit ", and 56".

(**21**) Section 71C is inserted into the Financial Services and Markets Act 2000 (c.8) by article 31 of this Order.

(**22**) Section 53(1) has been amended by section 97 of the Financial Services Act 2012 (c.21), paragraphs 1 and 6 of Schedule 2 to the Financial Services (Banking Reform) Act 2013 and S.I. 2014/3329.

(**23**) Section 62A was inserted by S.I. 2014/3329.

Cases where mandatory write-down etc applies: banking group companies

18. In section 81AA(8)(b) (cases where mandatory write-down, conversion etc applies: banking group companies)(**24**) omit ", on the basis of the valuation carried out in accordance with section 6E,".

Section 83ZW: renumbering

19. In section 83ZW, renumber subsection (3) as subsection (2).

Building societies

20. In section 84(b) (application of Part 1: general)(**25**)—

(a) for "84A" substitute "84ZA";

(b) for "fourth stabilisation option" substitute "second and fourth stabilisation options".

Building societies: Bridge bank option

21.—(1) After section 84 (application of Part 1 to building societies: general), insert—

"**Bridge bank: share transfer instruments**

84ZA.—(1) This section applies for the purpose of the exercise of the second stabilisation option (transfer to a bridge bank) in relation to a building society.

(2) A share transfer instrument made under section 12(2)(a) may—

(a) convert the building society into a company ("the successor company"), and

(b) make other provision for the purposes of, or in connection with the conversion of the building society.

(3) The provision which may be made under subsection (2)(b) includes—

(a) provision cancelling shares in the building society;

(b) provision cancelling membership rights in the building society;

(c) provision converting shares in the building society into deposits with the successor company;

(d) provision conferring rights and imposing liabilities in place of cancelled shares and membership rights;

(e) provision requiring the FCA to cancel the building society's registration under the Building Societies Act 1986 at a time specified in or determined in accordance with the instrument;

(f) provision that any person approved for the purposes of Part 5 of the Financial Services and Markets Act 2000 (performance of regulated activities) in relation to the building society immediately before the share transfer instrument is made continues to be approved for those purposes in relation to the successor company (but without affecting the power of the FCA or the PRA to vary or withdraw an approval);

(g) provision for the successor company on its incorporation to be wholly owned by a bridge bank specified in the instrument (the "parent undertaking");

(h) where provision is made under paragraph (g), provision—

(**24**) Section 81AA was inserted by S.I. 2014/3329.
(**25**) Section 84 was amended by section 21 of the Financial Services Act 2010, S.I. 2014/3329 and S.I. 2014/3344.

(i) for the transfer of liabilities from the successor company to the parent undertaking, and for the creation of corresponding liabilities of the successor company to the parent undertaking;

(ii) replacing a liability (of any form) of the building society or the successor company with a liability or security (of any form or class) of the parent undertaking.

(4) Section 15 (share transfer instruments) is to be read as if the provision referred to in subsection (1) of that section included the provision referred to in subsections (2) and (3) of this section.".

(2) In section 84B (further provision: conversion of building society into company)(**26**)—

(a) in subsection (1), after "This section applies where", insert—

"—

(a) a share transfer instrument makes provision under section 84ZA(2)(a), or

(b)";

(b) in subsections (2), (5) and (7), before "resolution instrument" insert "share transfer instrument or";

(c) in subsection (8), in the definition of "the successor company", before "84A(5)(a)" insert "84ZA(2)(a) or".

Building Societies: amendment of section 84D

22.—(1) Section 84D (modification of this Act and other legislation), is amended as follows.

(2) Before subsection (1) insert—

"(A1) Where a share transfer instrument makes provision under section 84ZA(2) with respect to a building society, the second stabilisation option is to be exercised by making (in that or a subsequent share transfer instrument) provision under section 12(2)(a)—

(a) with respect to the successor company, or

(b) where provision made under section 84ZA includes provision under subsection (3)(g) of that section, with respect to the successor company or its specified parent undertaking.".

(3) In subsection (2)—

(a) after "making of" insert "provision as mentioned in subsection (A1)(a) or (b) or";

(b) in paragraph (b)—

(i) after the first reference to "apply" insert "where relevant";

(ii) in sub-paragraph (ii) after "subsection" insert "(A1)(b) or".

(4) In the Table in subsection (2)—

(a) after the entry for section 12AA(**27**), insert—

"Section 15	Share transfer instruments	Treat references in subsection (1) to securities issued by a specified bank as references to securities issued by the building society, or by

(**26**) Section 84B was inserted, with sections 84A to 84D, by S.I. 2014/3344.
(**27**) Section 12AA was inserted by S.I. 2014/3329.

		the successor company or its specified parent undertaking.”

(b) after the entry for section 18, insert—

“Section 19	Conversion and delisting	
Section 20(**28**)	Directors and senior managers	Treat references to a director or senior manager of a specified bank as references to a director or senior manager of the building society or of the successor company or its specified parent undertaking. In subsection (1A)(**29**) treat the reference to a specified bank as a reference to the building society or its successor company.
Section 21	Ancillary instruments: production, registration etc	
Section 23	Incidental provision	
Section 24(**30**)	Procedure: instruments	On the first occasion on which the power to make a share transfer instrument is exercised in relation to a building society, treat the references in this section to a bank as a reference to a building society.
Section 26(**31**)	Supplemental Instruments	Treat the reference in subsection (3) to securities issued by the bank as a reference to securities issued by the building society or by the successor company or its specified parent undertaking.
Section 26ZA(**32**)	Onward share transfer instruments	Treat references to securities issued by the bank as references to securities issued by the building society or by the successor company or its specified parent undertaking.

(**28**) Section 20 was amended by the Financial Services Act 2012 (c. 21), section 100, and by S.I., 2014/3329.
(**29**) Subsection (1A) was inserted by the Financial Services Act 2012, section 100.
(**30**) Section 24 was amended by the Financial Services Act 2012, Schedule 17, paragraph 13, and by S.I. 2014/3329.
(**31**) Section 26 was amended by the Financial Services Act 2012, Schedule 17, paragraph 14 and by S.I. 2014/3329.
(**32**) Section 26ZA is inserted by article 9 of this Order.

Section 30(**33**)	Resolution company: share transfers	
Section 31(**34**)	Resolution company: reverse share transfer”;	

(c) after the entry for section 41A, insert—

“Section 44D and any other provision so far as relating to property transfer instruments under section 44D(**35**)	Transfer of property subsequent to share transfer instrument	Section 44D also applies where the Bank of England has made a share transfer instrument in accordance with section 12(2) which provides for the conversion of the building society under section 84ZA(2).”

(d) after the entry for section 49, insert—

“Section 52(**36**)	Transfer to resolution company”;	

(e) in the entry for sections 63, 64 and 66 to 70, in the first column, after the first reference to “in relation to” insert “a share transfer instrument or”;

(f) after the entry for section 75, insert—

“Section 78(**37**)	Public funds: general”;	

(g) after the entry for section 78A, insert—

“Section 79(**38**)	Public funds: resolution company	Treat the reference in subsection (1) to a bank as a reference to a building society or its successor company.
Section 80(**39**)	Resolution company: report	Treat the reference in subsection (1) to a bank as a reference to a building society or its successor company.”

(5) In subsection (3)(b), after “subsection”, insert “(A1)(b) or”.

(6) After subsection (5) insert—

“(5A) Where—

(a) the third stabilisation option is exercised in connection with the fourth stabilisation option in respect of a building society, and

(**33**) Section 30 was amended by the Financial Services Act 2012, Schedule 17, paragraph 18 and by S.I. 2014/3329.
(**34**) Section 31 was amended by the Financial Services Act 2012, section 97 and Schedule 17, paragraph 19 and by S.I. 2014/3329.
(**35**) Section 44D is inserted by article 13 of this Order.
(**36**) Section 52 was amended by the Financial Services (Banking Reform) Act 2013 (c.33), Schedule 2, paragraph 6, and by S.I. 2014/3329.
(**37**) Section 78 was amended by S.I. 2014/3329.
(**38**) Section 79 was amended by S.I. 2014/3329,
(**39**) Section 80 was amended by S.I. 2014/3329.

(b) before the third stabilisation option is exercised—

(i) the building society is converted into a company pursuant to section 84A(5)(a), or

(ii) all the property, rights and liabilities of the building society are transferred to a company pursuant to section 84A(5)(b),

the references to the bank in section 12ZA(1)(a)(**40**) and any other provision so far as relating to property transfer instruments under section 12ZA include a reference to the successor company.”.

(7) In subsection (6), after the words “do not apply where”, insert—

“—

(a) a share transfer instrument makes provision under section 84ZA, or

(b)”.

(8) In subsection (7), after the words “does not apply where” insert—

“—

(a) a share transfer instrument makes provision under section 84ZA(3)(e), or

(b)”.

(9) In subsection (8)—

(a) in the definition of “specified parent undertaking” after “falling within” insert “paragraph (g) of section 84ZA(3) or”;

(b) in the definition of “the successor company” after “under section” insert “84ZA(2) or”.

(10) In the heading to section 84D, insert at the beginning “Transfer to a bridge bank or”.

Application to investment firms

23. In section 89A (application to investment firms)(**41**), in the table in subsection (1) omit the entry for section 8.

Application to recognised central counterparties

24. In section 89B(1ZA) (application to recognised central counterparties)(**42**) after “2014” insert “or by the Bank Recovery and Resolution Order 2016”(**43**).

Restrictions on disclosure of confidential information

25. In section 89L(2) (restrictions on disclosure of confidential information)(**44**)—

(a) in paragraph (c)—

(i) in sub-paragraph (i), after inserted paragraph (cb) insert—

“(cc) a person appointed to make a report under section 83ZB(**45**) of that Act (reports by skilled persons);”;

(**40**) Section 12ZA was inserted by S.I. 2014/3329.
(**41**) Section 89A was inserted by section 101 of the Financial Services Act 2012 (c.21) and amended by S.I. 2014/3329.
(**42**) Section 89B was inserted by section 102 of the Financial Services Act 2012 and amended by paragraph 9 of schedule 2 to the Financial Services (Banking Reform) Act 2013 (c.33), S.I. 2013/504 and S.I. 2014/3329.
(**43**) Subsection (1ZA) was inserted into section 89B by S.I. 2014/3329.
(**44**) Section 89L was inserted by S.I. 2014/3329.
(**45**) Section 89ZB was inserted by S.I. 2014/3329.

(ii) in sub-paragraph (ii), for "to (cb)" substitute "to (cc)";

(b) paragraph (c)(iii) becomes paragraph (d) of subsection (2).

Bank administration

26.—(1) Part 3 (bank administration) is amended as follows.

(2) In section 136(2) (overview)—

(a) for "bridge bank", in both places, substitute "resolution company", and

(b) in paragraph (a), after "section 12" insert "or 12ZA"(**46**).

(3) In section 137(1)(a) (objectives), for "bridge bank" substitute "resolution company".

(4) In section 138 (objective 1: supporting private sector purchaser or bridge bank)—

(a) in subsections (1) and (4), and in the heading to section 138, for "bridge bank", in each place it occurs, substitute "resolution company";

(b) in subsection (2)(a) after "transfer instrument" insert "(including a bridge bank supplemental property transfer instrument or bridge bank supplemental reverse property transfer instrument)."

(5) In section 139 (objective 1: duration), for "bridge bank", in both places, substitute "resolution company".

(6) In section 140(3) (Objective 2: "normal" administration), for "bridge bank" substitute "resolution company".

(7) In section 143(2) (grounds for applying), for "or 12(2)" substitute ", 12(2) or 12ZA(3)".

(8) In section 145 (general powers, duties and effect), in Table 1 and Table 2, in the following entries, for "bridge bank", in each place it occurs, substitute "resolution company"—

(a) in Table 1, in the entries for—

(i) paragraph 43,

(ii) paragraph 49,

(iii) paragraph 60 and Schedule 1,

(iv) paragraph 65, and

(v) paragraph 72;

(b) in Table 2, in the entries for—

(i) section 168(4) and paragraph 13 of Schedule 4,

(ii) section 176A(**47**), and

(iii) section 178.

(9) In section 148 (sharing information), in subsections (1) to (4), for "bridge bank", in each place it occurs, substitute "resolution company".

(10) In section 149(2) (general application of this Part)—

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

(b) after paragraph (b) insert—

"(ba) bridge bank supplemental property transfer instruments under section 44D, and".

(**46**) Section 12ZA was inserted by S.I. 2014/3329.

(**47**) Section 176A was inserted into the Insolvency Act 1986 (c.45) by section 252 of the Enterprise Act 2002 (c.40) and amended by S.I. 2008/948.

(11) In section 150 (bridge bank to private purchaser), in subsections (1) and (4), and in the heading to section 150, for "bridge bank", in each place it occurs, substitute "resolution company".

(12) Section 151 (property transfer from bridge bank) is amended as follows—

(a) in that section, and in the heading to that section, for "bridge bank", in each place it occurs, substitute "resolution company";

(b) in subsection (1)(a), after "section 12(2)" insert "or 12ZA(3)".

(13) In section 152A (property transfer from transferred institution)—

(a) after subsection (1), insert—

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

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

(b) later makes a property transfer instrument from the bank in accordance with section 44D.";

(b) in subsection (2) after "41A(2)" insert "or 44D(2)".

(14) In section 157(2)(a) (other processes)—

(a) for "bridge bank" substitute "resolution company";

(b) after "section 12" insert "or 12ZA".

Index of defined terms

27. In the table in section 261 (index of defined terms)—

(a) at the appropriate places insert—

"Bridge bank supplemental property transfer instrument	44D";

"Bridge bank supplemental reverse property transfer instrument	44E";

"Onward share transfer instrument	26ZA";

(b) in the entry for "Private sector reverse share transfer instrument"—

(i) omit the words "Private sector", and

(ii) move the resulting entry to follow the entry for "Reverse property transfer order".

CHAPTER 2

Building Societies: charges

Building Societies: charges

28.—(1) Where—

(a) a share transfer instrument makes provision under section 84ZA(2)(a) of the Banking Act 2009(**48**) for the conversion of a building society into a company ("the successor company");

(**48**) Section 84ZA is inserted by article 20 of this Order.

(b) by virtue of that conversion the successor company acquires property or undertaking (within the meaning of section 1161(1) of the Companies Act 2006) which is subject to a charge; and

(c) the charge is of a kind which would, if it had been created by the company after the acquisition of the property or undertaking, have been capable of being registered under section 859A (charges created by a company)(**49**) of that Act,

section 859C(2) and (3) of the Companies Act 2006 (charges existing on property or undertaking acquired) applies in relation to that charge.

(2) Despite regulation 6 of the Companies Act 2006 (Amendment of Part 25) Regulations 2013(**50**), paragraph (1) applies regardless of the date of creation of the charge.

(3) In relation to a charge to which section 859C(2) and (3) of the Companies Act 2006 applies because of paragraph (1), Part 25 of the Companies Act 2006 has effect as if—

(a) for sub-paragraphs (i) and (ii) of section 859K(2)(b) there were substituted the words "the unique reference code allocated to the charge";

(b) for sub-paragraphs (i) and (ii) of section 859K(3)(b) there were substituted the words "the unique reference code allocated to the charge";

(c) section 859K(4) were omitted;

(d) for section 859L(4)(b) there were substituted—

"(b) the registered name and number of the successor company that acquired the property or undertaking subject to the charge;";

(e) section 859L(4)(c) were omitted;

(f) for section 859L(4)(d) there were substituted—

"(d) the unique reference code allocated to the charge.";

(g) in section 859O(2) the reference to the company that created the charge were a reference to the successor company that acquired the property or undertaking subject to the charge;

(h) section 859O(3)(b) were omitted;

(i) for section 859O(3)(c) there were substituted—

"(c) the unique reference code allocated to the charge.".

(**49**) Section 859A was inserted, with sections 859B to 859Q by S.I. 2013/600.
(**50**) S.I. 2013/600.