

## SCHEDULE 1

Regulation 2

### Amendments of the Banking Act 2009

#### Introduction

1. The Banking Act 2009 is amended as follows.

#### Special resolution regime: introduction

2. Section 3 (interpretation of Part 1) is amended in accordance with paragraphs 3 to 6.

- 3.—(1) Subsection (1) is amended as follows.

(2) In the definition of “the capital requirements regulation” at the end insert “as it had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/xxxx) were made,”.

- (3) In the definition of “critical functions”—

- (a) for “subsection (2)” substitute “subsections (2) and (2A)”;
- (b) after “operations” insert “(wherever carried out)”;
- (c) omit “in one or more EEA states”;
- (d) in paragraph (a), at the end insert “of the United Kingdom”;
- (e) in paragraph (b), at the end insert “in the United Kingdom”.

- (4) After that definition insert—

““FSCS” means the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000);”.

- (5) After that definition insert—

““normal insolvency proceedings” means the collective insolvency proceedings which—

- (a) entail the partial or total divestment of a debtor and the appointment of a liquidator or administrator (or a similar officeholder),
- (b) are normally applicable to institutions under the law of any part of the United Kingdom, and
- (c) are either specific to those institutions or generally applicable to any natural or legal person;

and, in particular, includes the bank insolvency procedure and the bank administration procedure;”.

4. In subsection (2), for paragraph (a) (but not the “and” after it) substitute—

“(a) Article 6 of Commission Delegated Regulation (EU) 2016/778 (criteria relating to the determination of critical functions) applies,”.

5. After subsection (2) insert—

“(2A) The Treasury may by regulations made by statutory instrument specify criteria for the determination of the activities, services and operations referred to in the definition of “critical functions”.

(2B) The power conferred by subsection (2A) includes—

- (a) power to amend or revoke Article 6 of Commission Delegated Regulation (EU) 2016/778; and

(b) power to amend or repeal subsection (2)(a).

(2C) A statutory instrument containing regulations under subsection (2A) is subject to annulment in pursuance of a resolution of either House of Parliament.”.

6. After subsection (3) insert—

“(4) In this Part a reference to the PRA rulebook is to the rulebook published by the PRA containing rules made by the PRA under the Financial Services and Markets Act 2000 as the rulebook has effect on exit day.”.

### **Objectives and Code**

7.—(1) Section 4 (special resolution objectives) is amended as follows.

(2) In subsection (4)(a)—

- (a) for the words from “authorised” to “Article 25,” substitute “authorised or recognised in the United Kingdom in accordance with Article 14 or 25”;
- (b) at the end insert “, as that Regulation had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (SI 000/2018) were made”.

(3) For subsection (7) substitute—

“(7) Objective 5 is to protect investors and depositors to the extent that they have investments or deposits covered by the FSCS.”.

### **Mandatory write-down, conversion etc of capital instruments**

8.—(1) Section 6A (cases where mandatory write-down, conversion, etc applies) is amended as follows.

(2) In subsection (4)(d), for the words from the beginning to “directive” substitute “the Bank of England makes a determination”.

(3) In subsection (9)—

- (a) omit the definition of “appropriate authority”;
- (b) in the definition of “consolidated basis” for “Article 2.1(7) of the recovery and resolution directive” substitute “Article 4.1(47) and (48) of the capital requirements regulation”.

9. In section 6B (mandatory write-down, conversion, etc of capital instruments), in subsection (9), for the words from “, pursuant” to the end substitute—

“—

- (a) pursuant to this section as it applies in relation to a banking group company by virtue of section 81AA, or
- (b) in the course of applying the bail-in option provided for by section 12A or section 81BA.”.

10.—(1) Section 6C (mandatory reduction instruments: implementation of requirements of section 6B) is amended as follows.

(2) In subsection (4)(a)—

- (a) for “parent” (where it first appears) substitute “UK parent”, and
- (b) for the words from “resolution” to the end substitute “Bank of England”.

(3) In subsection (4)(b) for “State or a government entity” substitute “Treasury”.

(4) In subsection (4)(d), for the words from “complies” to the end substitute “represents appropriate compensation to the affected creditor for any loss incurred in consequence of the conversion of that instrument.”.

(5) After subsection (4) insert—

“(4A) Where different conversion rates are applied to different classes of instrument, a lower conversion rate must be applied to subordinated debt than is applied to debts ranking higher in the hierarchy of claims in normal insolvency proceedings.”.

(6) In subsection (7), omit the definition of “resolution authority”.

### **Valuation before mandatory write-down of capital or stabilisation action**

**11.**—(1) Section 6E (pre-resolution valuation) is amended as follows.

(2) For subsection (6) substitute—

“(6) The valuation carried out under this section must follow the methodology specified in—

- (a) any Commission Regulation containing regulatory technical standards adopted by the European Commission under article 36.16 of the recovery and resolution directive, so far as they are retained EU law, or
- (b) technical standards made under subsection (11)(a)”.

(3) For subsection (10) substitute—

“(10) A provisional valuation carried out under subsection (1) must make provision in respect of additional losses by the bank in accordance with—

- (a) any Commission Regulation containing regulatory technical standards adopted by the European Commission under article 36.16 of the recovery and resolution directive, so far as they are retained EU law, or
- (b) technical standards made under subsection (11)(b).

(11) The Bank of England may make technical standards relating to—

- (a) the methodology for assessing the value of the assets and liabilities of a bank for the purposes of a valuation under this section;
- (b) the methodology for calculating and including a buffer for additional losses in the provisional valuation.”.

### **Exercise of powers: general**

**12.** In section 7 (general conditions for exercise of stabilisation powers), in subsection (5E)(a) for “central banks” substitute “the Bank of England”.

**13.**—(1) Section 7A (effect on other group members, financial stability in EU etc) is amended as follows.

(2) In the heading, for “EU” substitute “UK”.

(3) In subsection (1)—

- (a) in paragraph (b) for “EEA” substitute “United Kingdom”;
- (b) in paragraph (c) for “European Union or of the EEA states” substitute “United Kingdom”.

(4) In subsection (2)—

- (a) in paragraph (b) for the words from “European” to “operating)” substitute “United Kingdom”;

(b) in paragraph (c)—

(i) for “third countries” in the first place it appears substitute “countries other than the United Kingdom”;

(ii) omit “third” in the second place it appears.

**14.** In section 8ZA (specific conditions: asset management vehicle), omit subsection (5).

#### **The stabilisation options**

**15.—**(1) Section 11A (private sector purchaser: marketing) is amended as follows.

(2) In subsection (5)(a) omit “or another EEA state”.

(3) After subsection (7) insert—

“(8) The reference in subsection (7) to Regulation (EU) No 596/2014 is to that Regulation as it had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/xxxx) were made.”.

**16.** In section 12AA (bail-in: sequence of write-down and conversion of capital instruments and liabilities), in subsection (2), omit the definition of “normal insolvency proceedings”.

#### **Transfer of securities**

**17.** In section 14 (interpretation: “securities”), in subsection (5)(b) for the words from “Regulation” to the end substitute “the capital requirements regulation”.

#### **Transfer of property**

**18.** In section 35 (transferable property), in subsection (1)—

(a) in paragraph (d) at the end insert “(including under legislation of the European Union)”;

(b) in paragraph (e) omit “(including legislation of the European Union)”.

#### **Bail-in option**

**19.—**(1) Section 48B (special bail-in provision) is amended as follows.

(2) In subsection (8)(g) for the words from “as referred” to the end substitute “within the meaning of rule 3 of Part 152 (remuneration) of the PRA rulebook (other than persons deemed by virtue of rule 3.2 not to be material risk takers and notified to the PRA in accordance with rule 3.2).”

(3) In subsection (8)(j) for the words from “Financial Services Compensation” to the end substitute “FSCS in relation to levies imposed by the scheme manager under section 213(3)(b) of the Financial Services and Markets Act 2000.”.

(4) In subsection (10), omit paragraph (b) (and the “and” before it).

(5) In subsection (12)(c)—

(a) for “micro-enterprises, small enterprises or medium-sized enterprises” substitute “micro, small and medium-sized enterprises”;

(b) for “an EEA State” substitute “the United Kingdom”.

(6) After subsection (13) insert—

“(13A) The Treasury may by regulations made by statutory instrument make further provision in connection with the exercise of functions under subsection (10) (including

provision about further circumstances in which functions under that subsection may or must be exercised).

(13B) Regulations under subsection (13A) may—

- (a) amend subsections (12) and (13) by adding any provision;
- (b) amend or revoke Commission Delegated Regulation (EU) 2016/860;
- (c) amend that Regulation by adding, omitting or varying any provision (pending the revocation of the whole Regulation under paragraph (b)).

(13C) A statutory instrument containing regulations under subsection (13A) may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament.”.

(7) In subsection (14)—

(a) at the appropriate place insert—

““core business lines” means business lines and associated services which represent material sources of revenue, profit or franchise value for the bank or a group which includes the bank (or in the case of an instrument made in relation to a resolution company, of the resolution company);”;

(b) for the words from ““micro-enterprise”” to the end substitute—

““micro, small and medium-sized enterprises” means micro, small and medium-sized enterprises as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2003/361/EC.”.

(8) After subsection (14) insert—

“(15) For the purposes of the definition of “core business lines”—

- (a) Article 7 of Commission Delegated Regulation (EU) 2016/778 (criteria relating to the determination of core business lines) applies, and
- (b) “group” has the meaning given by section 3(2)(b).

(16) The Treasury may by regulations made by statutory instrument specify criteria for the determination of the business lines and associated services referred to in the definition of “core business lines”.

(17) The power conferred by subsection (16) includes—

- (a) power to amend or revoke Article 7 of Commission Delegated Regulation (EU) 2016/778; and
- (b) power to amend or repeal subsection (15)(a).

(18) A statutory instrument containing regulations under subsection (16) is subject to annulment in pursuance of a resolution of either House of Parliament.”.

**20.** In section 48C (meaning of “protected deposit”), in subsection (1) for the words from “a deposit” to the end substitute “the FSCS”.

**21.—**(1) In section 48D (general interpretation of section 48B), subsection (1) is amended as follows.

(2) In the definition of “credit institution” for “Article 2.5(2) to (23)” substitute “Article 2.5(2), (3) or (23)”.

(3) In the definition of “designated settlement system” for the words from “in accordance” to the end substitute “by an order under regulation 4 of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 ([S.I. 1999/2979](#)) for the purposes of those regulations;”.

(4) In the definition of “investment firm”—

- (a) for “Regulation (EU)No 575/2013 of the European Parliament and of the Council” substitute “the capital requirements regulation”;
- (b) after “specified in” insert “rules made by the FCA or PRA for the purpose of implementing”.

**22.—**(1) Section 48H (business reorganisation plans) is amended as follows.

(2) In subsection (1)—

- (a) omit the “and” after paragraph (a);
- (b) after paragraph (b) insert—
  - “; and
  - (c) submit to the Bank of England progress reports on the implementation of the plan at such intervals as the instrument may require.”.

(3) After subsection (7) insert—

- “(7A) The Bank of England may make technical standards which—
  - (a) require progress reports mentioned in subsection (1)(c) to include such matters as are specified in the technical standards; or
  - (b) otherwise relate to the content of those progress reports, so far as dealing with matters so specified.”.

### **Termination rights etc**

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

(2) In subsection (1)—

- (a) in the definition of “crisis management measure” omit the words from “has” to “Kingdom”;
- (b) in the definition of “crisis prevention measure”—
  - (i) omit the words from “has” to “Kingdom”;
  - (ii) in paragraph (a), for the words from “of a” to the end substitute “under the Bank Recovery and Resolution (No 2) Order 2014 ([SI 2014/3348](#)) of a requirement to take relevant measures as described in article 15, 16, or 23 of that Order,”;
  - (iii) in paragraph (b), for the words from “Article” to the end substitute “section 3A,”;
  - (iv) for paragraph (c) substitute—
    - “(c) the taking by the FCA or the PRA of a measure for early intervention under article 111 of the Bank Recovery and Resolution (No. 2) Order 2014,”;
- (c) for the definition of “third-country institution” substitute—
  - ““third-country institution” means an institution established in a country or territory other than the United Kingdom that would, if it were established within the United Kingdom, be regarded as a bank, building society, credit union or investment firm,”;
- (d) after the definition of “third country institution” insert—
  - ““third country parent financial holding company” means a parent financial holding company (within the meaning of Article 4.1(30) of the capital requirements regulation) established or formed under the law of a country or territory outside the United Kingdom;

“third country parent institution” means a parent institution (within the meaning of Article 4.1(28) of the capital requirements regulation) established or formed under the law of a country or territory outside the United Kingdom;

“third country parent mixed financial holding company” means a parent mixed financial holding company (within the meaning of Article 4.1(32) of the capital requirements regulation) established or formed under the law of a country or territory outside the United Kingdom;”;

(e) for the definition of “third country parent undertaking” substitute—

““third country parent undertaking” means a third country parent institution, a third country parent financial holding company or a third country parent mixed financial holding company.”.

### **Independent valuer: valuation under section 6E or 48X**

**24.**—(1) Section 62A (meaning of independent valuer in sections 6E and 48X) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a) omit the words from “adopted” to “directive”;

(b) in paragraph (b) for “have been adopted by the European Commission” substitute “exist”.

(3) After subsection (2) insert—

“(2A) In subsection (2) “regulatory technical standards” means—

(a) any Commission Regulation containing regulatory technical standards adopted by the European Commission under article 36.16 of the recovery and resolution directive, so far as they are retained EU law, or

(b) technical standards made under subsection (2B).

(2B) The Bank of England may make technical standards specifying the circumstances in which for the purposes of this section a person is to be considered independent from the Bank of England and the bank to which the valuation relates.”.

### **Incidental functions**

**25.** In section 70A (suspension of obligations), in subsection (7)—

(a) in the definition of “eligible claim” omit the words from “or a” to the end;

(b) in the definition of “eligible deposit” omit the words from “or a” to the end.

**26.** In section 70C (suspension of termination rights), in subsection (6) omit the words from “and, where” to the end.

**27.**—(1) Section 70D (suspension: general provisions) is amended as follows.

(2) In subsection (1), in the definition of “excluded person”—

(a) omit paragraph (b);

(b) in paragraph (c) omit “, EEA central counterparty”.

(3) In subsection (2) omit “, “EEA central counterparty””.

**28.** In section 75 (power to change law), in subsection (9), for the definition of “third-country institution” substitute—

““third-country institution” has the same meaning as in section 48Z;”.

## Groups

**29.**—(1) Section 81AA (cases where mandatory write-down, conversion etc applies: banking group companies) is amended as follows.

(2) In subsection (2)(c)—

- (a) in sub-paragraph (i) for “article 2.1(23) of the recovery and resolution directive” substitute “Article 4.1A of the capital requirements regulation”;
- (b) in sub-paragraph (ii) for “Article 1.1(c) or (d) of that directive” substitute “subsection (2A).”.

(3) After subsection (2) insert—

“(2A) The entities covered by subsection (2)(c)(ii) are—

- (a) an entity of any of the following kinds which is established in the United Kingdom—
  - (i) a financial holding company;
  - (ii) a mixed financial holding company;
  - (iii) a mixed-activity holding company;
- (b) a UK parent financial holding company or a UK parent mixed financial holding company,

and expressions used in this subsection have the same meaning as in the capital requirements regulation.”.

(4) In subsection (3)(b) omit sub-paragraph (ii) (but not the “and” after it).

(5) In subsection (4)(c) omit “, (6)”.

(6) Omit subsection (6).

(7) In subsection (8)(b) omit “or EU institution”.

(8) In subsection (9) omit “, EU resolution authority, competent authority”.

(9) In subsection (11)(c)—

- (a) omit sub-paragraphs (i) and (ii);
- (b) in sub-paragraph (iii), for the words from “neither” to “but” substitute “the parent undertaking of the group is not a UK authorised person and”.

(10) In subsection (14)—

- (a) omit the definitions of “competent authority”, “consolidating supervisor”, “EU institution” and “EU resolution authority”;
- (b) in the definition of “financial institution”, for the words from “meaning” to the end substitute “same meaning as in the capital requirements regulation”.
- (c) in the definition of “relevant third-country authority”, for the words from “has” to the end substitute “means an authority in a country or territory other than the United Kingdom which has functions corresponding to those of the Bank of England, the FCA or the PRA, in relation to bank recovery and resolution”.

**30.**—(1) Section 81B (sale to commercial purchaser and transfer to bridge bank) is amended as follows.

(2) In subsection (2) omit paragraph (b).

(3) In subsection (2A) omit “, EU resolution authority”.

(4) In subsection (9)—



- (a) omit the definitions of “EU institution” and “EU resolution authority”;
- (b) in the definition of “relevant third-country authority”, for the words from “Article” to the end substitute “section 81AA(14)”.

**31.**—(1) Section 81ZBA (transfer to asset management vehicle) is amended as follows.

- (2) In subsection (2) omit paragraph (b).
- (3) In subsection (2A) omit “, EU resolution authority”.
- (4) In subsection (9), omit the definition of “normal insolvency proceedings”.

**32.** In section 81BA (bail-in option)—

- (a) in subsection (2) omit paragraph (b);
- (b) in subsection (2A) omit “, EU resolution authority”.

**33.** In section 81CA (section 81BA: supplemental), in subsection (5), omit “, EU institution”.

**34.** In section 81D (interpretation: “banking group company” etc), in subsection (1)—

- (a) omit “EU institution”;
- (b) for “81B(9)” substitute “81AA(14)”.

### **Appointment of investigators**

**35.** In section 83ZD (appointment of person to carry out investigations in particular cases), in subsection (3)(b) for “gives” substitute “, immediately before exit day, gave”.

**36.**—(1) Section 83ZE (investigations etc in support of foreign resolution authorities) is amended as follows.

- (2) In subsection (3)—
  - (a) omit paragraph (a) (with the “or” after it);
  - (b) in paragraph (b), for the words from “those” to the end substitute “the stabilisation powers of the Bank of England under this Part.”.
- (3) Omit subsections (5), (8) and (9).
- (4) In subsection (10)—
  - (a) omit paragraph (a) (with the “or” after it);
  - (b) in paragraph (b)—
    - (i) for the words from “territory” to “state” substitute “country or territory outside the United Kingdom”;
    - (ii) for “(2)(b)” substitute “(3)(b)”.

### **Enforcement of relevant requirements**

**37.** In section 83ZY (publication of information relating to certain Bank of England decisions etc), in subsection (10) omit paragraph (b) (with the “and” preceding it).

**38.** In section 83ZZ (co-operation), in paragraph (c) for “giving” substitute “which, immediately before exit day, gave”.

### **Special cases**

**39.**—(1) In Section 83A (Modifications of Part 1), the Table of modifications of Part 1 (in its application to an FCA-regulated bank) is amended as follows.

(2) At the beginning insert—

“Section 3	Treat the definition of “normal insolvency proceedings” in subsection (1) as including investment bank special administration established by the Investment Bank Special Administration Regulations 2011 (S/I. 2011/245).”.
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(3) In the entry for section 8ZA omit paragraph (b).

(4) Omit the entry for section 12AA.

(5) In the entry for section 81ZBA omit paragraph (c).

(6) Omit the entry for section 89H.

**40.** In section 89A (application of Part 1 to investment firms), in subsection (1), in the Table, in the entry for section 12AA, for the words in column 2 substitute “References to normal insolvency proceedings do not include a reference to the bank insolvency procedure.”.

### Third-country resolution actions

**41.—**(1) Section 89H (recognition of third-country resolution actions) is amended as follows.

(2) In subsection (4)—

(a) in paragraph (a) omit “or another EEA state”;

(b) in paragraph (c)—

(i) for “an EEA state” substitute “the United Kingdom”;

(ii) for “EEA state” substitute “United Kingdom”;

(iii) omit the word “third” before “country concerned”;

(c) in paragraph (e) omit “or contrary to a provision of EU law”.

(3) Omit subsection (6).

(4) In subsection (7)—

(a) omit the definitions of “EU institution” and “normal insolvency proceedings”;

(b) for the definition of “third-country institution” substitute—

““third-country institution” means an institution established in a country or territory other than the United Kingdom that would, if it were established within the United Kingdom, be regarded as a bank, building society, credit union or investment firm;”;

(c) for the definition of “third-country parent undertaking” for the words from “has” to the end substitute “means a parent undertaking, parent financial holding company or a parent mixed financial holding company established in a country or territory outside the United Kingdom;”;

(d) in the definition of “third-country resolution action”—

(i) in the opening words, for “law of a third country” substitute “law of a country or territory outside the United Kingdom” and for “an EU institution” substitute “a bank, building society, credit union or investment firm;”;

(ii) in paragraph (a) for “EU institution” substitute “a bank, building society, credit union or investment firm”;

(iii) in paragraph (b) for “third country” substitute “country or territory concerned”;

(e) omit the definition of “third country”.

**42.**—(1) Section 89I (effect of recognition of third-country resolution action by the Bank of England) is amended as follows.

(2) In subsection (6), in the modified subsection (9A), for “third country” substitute “country or territory”;

(3) In subsection (9)—

(a) in the modified subsection (3), after “United Kingdom and the”, for “third-country” substitute “country or territory”;

(b) in the modified subsection (3A) for ““third-country group company” and “third country”” substitute “and “third-country group company””.

### **Resolution of UK branches of third-country institutions**

**43.** Section 89JA (resolution of UK branches of third-country institutions) is amended as follows.

**44.** In subsection (2)(c) for the words from “meaning” to “directive” substitute “same meaning as in section 89H”.

**45.**—(1) The modified version of section 6E substituted by subsection (4) is amended as follows.

(2) In subsection (5) omit the words from “(within” to “directive)”.

(3) After subsection (5) insert—

“(5A) In subsection (5)(b) “relevant third-country authority” means an authority in a country or territory outside the United Kingdom that has functions corresponding to the stabilisation powers of the Bank of England, the FCA or the PRA.”.

(4) For subsection (6) substitute—

“(6) The valuation carried out under this section must follow the methodology specified in—

(a) any Commission Regulation containing regulatory technical standards adopted by the European Commission under article 36.16 of the recovery and resolution directive, so far as they are retained EU law, or

(b) technical standards made under subsection 12(a).”.

(5) In subsection (8) for “third country” substitute “country or territory outside the United Kingdom”.

(6) For subsection (11) substitute—

“(11) A provisional valuation carried out under subsection (1) must make provision in respect of additional losses by the third-country institution in accordance with—

(a) any Commission Regulation containing regulatory technical standards adopted by the European Commission under article 36.16 of the recovery and resolution directive, so far as they are retained EU law, or

(b) technical standards made under subsection (12)(b).

(12) The Bank of England may make technical standards relating to—

(a) the methodology for assessing the value of the assets and liabilities of a branch for the purposes of a valuation under this section;

(b) the methodology for calculating and including a buffer for additional losses in the provisional valuation.”.

**46.**—(1) The modified version of section 7 substituted by subsection (5) is amended as follows.

(2) In subsection (4)(a) for “EEA” substitute “UK”.

(3) In subsection (9) for the definitions of “EEA creditor” and “normal insolvency proceedings” substitute—

““UK creditor”, in relation to a third-country institution, means a creditor of the institution who—

- (a) in the case of an individual, is ordinarily resident in the United Kingdom; and
- (b) in the case of a body corporate or unincorporated association, has its head office in the United Kingdom.”.

**47.—**(1) The modified version of section 7A substituted by subsection (6) is amended as follows.

(2) In paragraph (b), for the words from “European” to “operating)” substitute “United Kingdom”;

(3) In paragraph (c)—

- (a) for “third country” (in the first place it appears) substitute “country or territory”;
- (b) for the words “third country (as defined in section 89H(7))” substitute “country or territory (other than the United Kingdom)”.

**48.—**(1) The modified version of section 48B substituted by subsection (8) is amended as follows.

(2) In subsection (10)—

- (a) in paragraph (f)(ii) for “as referred” to the end substitute “within the meaning of rule 3 of Part 152 (remuneration) of the PRA rulebook (other than persons deemed by virtue of rule 3.2 not to be material risk takers and notified to the PRA in accordance with rule 3.2).”;
- (b) in paragraph (i), for the words from “Financial Services Compensation” to the end substitute “the FSCS in relation to levies imposed by the scheme manager under section 213(3)(b) or (4) of the Financial Services and Markets Act 2000”.

(3) In subsection (12) omit paragraph (b) (and the “and” before it).

(4) In subsection (14)(c)—

- (a) for “an EEA state” substitute “the United Kingdom”;
- (b) for “micro-enterprises, small enterprises or medium-sized enterprises” substitute “micro, small and medium-sized enterprises”.

(5) In subsection (15) for “third country” substitute “country or territory outside the United Kingdom”;

(6) In subsection (17)—

(a) at the appropriate place insert—

““core business lines” means business lines and associated services which represent material sources of revenue, profit or franchise value for the third-country institution or its UK branch (or in the case of an instrument made in relation to a resolution company, of the resolution company);”;

(b) for the words from ““micro-enterprise”” to the end substitute—

““micro, small and medium-sized enterprises” means micro, small and medium-sized enterprises as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2003/361/EC.”.

(7) After subsection (17) insert—

“(17A) For the purposes of the definition of “core business lines” Article 7 of Commission Delegated Regulation (EU) 2016/778 (criteria relating to the determination of core business lines) applies.

(17B) The Treasury may by regulations made by statutory instrument specify criteria for the determination of the business lines and associated services referred to in the definition of “core business lines”.

(17C) The power conferred by subsection (16) includes—

- (a) power to amend or revoke Article 7 of Commission Delegated Regulation (EU) 2016/778; and
- (b) power to amend or repeal subsection (17A).

(17D) A statutory instrument containing regulations under subsection (17B) is subject to annulment in pursuance of a resolution of either House of Parliament.”.

**49.**—(1) In the Table of further modifications in subsection (11), column 2 is amended as follows.

(2) In the entry relating to section 44C(4), for “third country” substitute “country or territory outside the United Kingdom”.

(3) In the entry relating to section 60(3)(b) for “third country” substitute “country or territory outside the United Kingdom”;

(4) In the entry relating to section 60B(4) for “third country” substitute “country or territory outside the United Kingdom”;

(5) In the entry relating to section 63(1A) for “third country” substitute “country or territory outside the United Kingdom”.

### **General provisions**

**50.** In section 89K (insolvency proceedings), in subsection (3)(f) for the words from “2.15” to the end substitute “4.1(21) of the capital requirements regulation.”.

### **Bank Insolvency**

**51.** In section 120A (notice to the regulators and the Bank of England of preliminary steps), in subsection (2) for the words from “2.15” to the end substitute “4.1(21) of the capital requirements regulation (within the meaning of section 3).”.

### **Payment Systems**

**52.** In section 206B (international obligations), in subsection (1) for “EU obligations or any other” substitute “any”.

### **Miscellaneous provisions**

**53.** In section 251 (financial assistance to building societies), in subsection (1)—

- (a) after paragraph (a) insert “or”;
- (b) omit paragraphs (c) and (d).

### **General**

**54.** In section 258A (“investment firm”), in subsection (1) at the end insert “as it had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (SI 2018/xxxx) were made”.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:  
*The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 No. 1394*

**55.**—(1) In section 259 (statutory instruments), in subsection (3), the Table is amended as follows.

(2) After the row relating to the meaning of “bank” insert—

“2(2A)	Criteria for determining what are critical functions	Negative resolution”.
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(3) After the row relating to the protection of interests insert—

“48B(13A)	Further provision connected with functions under section 48B(10)	Draft affirmative resolution
48B(16)	Criteria for determining what are core business lines	Negative resolution”.

(4) After the row relating to recognised central counterparty compensation orders insert—

“89JA(8) (modified section 48B(17B))	Criteria for determining what are core business lines	Negative resolution”.
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**56.**—(1) In section 261 (index of defined terms), the Table is amended as follows.

(2) For the entry relating to the FSCS substitute—

“FSCS (in Part 1)	3
FSCS (in Part 2)	93”.

(3) At the appropriate place insert—

“Normal insolvency proceedings (in Part 1)	3”.
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