

DORMANT BANK AND BUILDING SOCIETY ACCOUNTS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 1: Transfer of balances in dormant accounts

Section 7: “Bank”

53. This section explains which banks are eligible to participate in the schemes under sections 1 and 2. “Bank” is defined by reference to persons authorised for the purposes of the Financial Services and Markets Act 2000 (“FSMA”) to accept deposits. (Deposit-taking is specified as a regulated activity under section 22 of FSMA, by article 5 of the [Regulated Activities Order 2001 \(SI 2001/544\)](#)). These are either banks incorporated in the UK (or foreign banks incorporated outside the EEA) which are authorised to accept deposits in the UK by the Financial Services Authority; or credit institutions authorised in another EEA Member State in accordance with the Banking Consolidation Directive (Directive [2006/48/EC](#)) which exercise passport rights under Schedule 3 to FSMA to accept deposits in the UK. Broadly speaking, the definition aims to capture all retail banks operating from branches in the UK.
54. *Subsections (3) and (4)* exclude from this definition:
- those institutions that have permission under FSMA to accept deposits only in the course of another activity, for example insurance providers;
 - those specified, or within a class of persons specified, by an exemption order made under section 38 of FSMA. The [Financial Services and Markets Act 2000 \(Exemption\) Order 2001 \(SI 2001/1201\)](#) specifies various banks and classes of persons, with the effect that, for example, certain international development banks and charities are excluded from the definition of “bank”; and
 - UK building societies, credit unions and friendly societies.