These notes refer to the Banking Act 2009 (c.1)
which received Royal Assent on 12 February 2009

BANKING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Special Resolution Regime

Introduction

Section 1: Overview

25. This section introduces the main features of the special resolution regime. The special resolution regime includes the three stabilisation options (transfer to a private sector purchaser, transfer to a bridge bank and transfer to temporary public sector ownership), the bank insolvency procedure and the bank administration procedure. The stabilisation options are exercised through the stabilisation powers, which are the powers to effect the transfer of shares and other securities or property, rights and liabilities, by operation of law. These stabilisation powers include the onward, supplemental and reverse transfer powers referred to below. Each of the Tripartite Authorities—the Bank of England, the Treasury and the Financial Services Authority—has a role in the operation of the special resolution regime.

Section 2: Interpretation: "bank"

26. This section defines a bank as a UK institution that has a regulatory permission, granted by the FSA under the Financial Services and Markets Act 2000, to accept deposits. It states that bank does not include a building society or a credit union, but provides how the special resolution regime is, or may be, applied to such institutions. The Treasury may, by order, add to the exclusions from this definition of bank.

Section 3: Interpretation: other expressions

27. This section defines the terms FSA and financial assistance.

Objectives and code

Section 4: Special resolution objectives

28. This section sets out the SRR objectives and requires the FSA, Bank of England and the Treasury to have regard to these objectives in using or considering the use of the stabilisation powers, bank insolvency procedure or bank administration procedure. The SRR objectives are to protect and enhance the stability of the UK's financial systems, to protect and enhance public confidence in the stability of the UK's banking systems, to protect depositors, to protect public funds and to avoid interfering with property rights in contravention of the Convention rights (of the Human Rights Act 1998, principal amongst which, in this context, is the right to the peaceful enjoyment of property, under Article 1 of the First Protocol of the European Convention on Human Rights). *Subsection (9)* makes it explicit that continuity of banking services is included as part of the special resolution objective to protect and enhance the stability of the UK's financial

systems and *subsection (10)* makes clear that these objectives are not listed in order of priority; rather they are to be balanced in the circumstances of any given case.

Section 5: Code of practice

29. This section requires the Treasury to issue a code of practice about the use of the stabilisation powers, the bank insolvency procedure and the bank administration procedure. It notes the areas that the code may provide guidance on and requires that the FSA, Bank of England and HM Treasury must have regard to the code.

Section 6: Code of practice: procedure

30. This section requires the Treasury to consult with the FSA, the Bank of England and the FSCS before issuing the code and to lay it before Parliament as soon as possible following issue. It also gives Treasury the power to revise the code as appropriate.

Exercise of powers: general

Section 7: General conditions

31. This section provides that stabilisation powers can be exercised only in respect of a bank if the conditions set out in the section are met. Those conditions essentially demarcate the boundary that must be crossed before the stabilisation powers, the bank administration procedure and (normally) the bank insolvency procedure may be applied to a bank.

32. The first condition, set out in *subsection (2)*, is that, in the opinion of the FSA, the bank is failing, or is likely to fail, to satisfy its regulatory threshold conditions (as provided in the Financial Services and Markets Act 2000).

33. The second condition, set out in *subsection (3)*, is that, in the opinion of the FSA, it is not reasonably likely that action will be taken by or in respect of the bank that will enable the bank to satisfy the threshold conditions, having regard to timing and other relevant circumstances.

34. *Subsection (4)* provides that, in making this judgement, the FSA are required to discount any financial assistance provided by the Treasury or Bank of England (disregarding ordinary market assistance offered by the Bank on its usual terms). Before confirming that the second condition is met the FSA must consult the Bank of England and the Treasury. *Subsection (6)* provides that the special resolution regime objectives are not applicable to the FSA's decisions on whether a bank meets either of these conditions.

Section 8: Specific conditions: private sector purchaser and bridge bank

35. This section sets out alternative conditions one of which must be satisfied before the Bank of England can exercise stabilisation powers so as to effect a transfer of a bank or banking business to a private sector purchaser or to a bridge bank. It provides that the Bank of England can exercise a stabilisation power only if it is satisfied that the exercise of the power is necessary having regard to certain public interest conditions, set out in *subsection (2)*, namely the stability of the UK's financial systems, the maintenance of public confidence in the stability of the UK's banking systems and the protection of depositors. *Subsection (3)* states that before exercising such powers the Bank must consult both the Treasury and the FSA.

36. *Subsection (4)* provides for the position where the Treasury has provided financial assistance to a bank in order to resolve or reduce a serious threat to the stability of the UK's financial systems. In this situation, as set out in *subsection (5)*, the Bank of England may only exercise a stabilisation power following a recommendation from the Treasury on the basis of it being necessary to protect the public interest. The Bank then retains the discretion to consider whether the exercise of such a power is an appropriate

way to provide that protection. *Subsection (6)* provides that these conditions are in addition to the conditions in section 7.

Section 9: Specific conditions: temporary public ownership

37. This section provides for alternative conditions one of which must be satisfied for the Treasury to exercise stabilisation powers to take a bank into temporary public ownership.

38. *Subsection (2)* provides that the first condition is that the exercise of the power is necessary to resolve or reduce a serious threat to the stability of the financial systems of the UK.

39. *Subsection (3)* sets the second, alternative, condition as follows: if the exercise of the power is necessary to protect the public interest, where the Treasury has provided financial assistance in respect of the bank for the purposes of resolving or reducing a serious threat to the stability of the UK's financial systems. *Subsection (4)* provides that the Treasury must consult the FSA and the Bank of England before determining whether this condition is met. *Subsection (5)* provides that these conditions are in addition to the conditions in section 7.

Section 10: Banking Liaison Panel

40. This section provides for a new Banking Liaison Panel to advise the Treasury on:

- the effect of the special resolution regime on banks, their counterparties and the financial markets
- the exercise of the powers to make statutory instruments of Parts 1, 2 or 3 (excluding certain regulations and orders).
- the making of the section 5 code of practice
- any matter referred to them by the Treasury

41. The members of the Panel will include representatives of the Authorities, FSCS and from the banking, legal and insolvency sectors.

The stabilisation options

Section 11: Private sector purchaser

42. Where both the general conditions of section 7 and the specific conditions for the private sector purchaser stabilisation option of section 8 are met, *subsection (1)* allows the Bank of England to sell all or part of the business of a bank to a commercial purchaser.

43. *Subsection (2)* provides that this transfer may be effected through either a transfer of the bank's shares and other securities, or some or all of its property, rights and liabilities. Both types of transfer are executed by instruments made by the Bank (a share transfer instrument (see section 15) or a property transfer instrument (see section 33)).

Section 12: Bridge bank

44. *Subsection (1)* provides that, where the general conditions (section 7) and the specific conditions (section 8) for the bridge bank stabilisation option are met, the Bank of England may transfer all or part of the business of a bank to a bridge bank. *Subsection (2)* provides that a transfer to a bridge bank may be effected only through a transfer of the some or all of the bank's property, rights and liabilities and is executed by one or more instrument(s) made by the Bank. As defined in subsection (1), a bridge bank is a company wholly owned by the Bank of England.

45. The code of practice to be made under section 5(1) must address matters relating to the management and control of bridge banks, which must address certain matters specified in *subsection (3)*.

46. Under *subsection (4)*, where a property transfer is made from a bridge bank (whether or not through means of a property transfer instrument) to a company wholly owned by the Bank of England, that company shall be treated as an 'onward bridge bank'. *Subsection (5)* provides for the nature of an onward bridge bank (by setting out the provisions of Part 1 which do and do not apply to onward bridge banks).

Section 13: Temporary public ownership

47. Where the general conditions (section 7) are satisfied and the Treasury is satisfied that the specific conditions for the temporary public ownership stabilisation option are met as provided in section 9, the Treasury may take a bank into temporary public ownership.

48. *Subsection (2)* provides that the transferee may either be a nominee of the Treasury (such as the Treasury Solicitor) or a company wholly owned by the Treasury. A transfer to temporary public ownership may only be effected through a transfer of securities, and is made by a share transfer order made by statutory instrument subject to the negative procedure (see sections 16 and 25).

49. *Subsection (3)* provides that the code of practice must include provision about the management of a bank in temporary public ownership.

Transfer of securities

Section 14: Interpretation: "securities"

50. Share transfer powers may be used to effect the transfer of securities. This section defines securities widely. The definition includes shares and stock; debentures; warrants or other instruments that entitle the holder to acquire such securities; and other rights granted by a deposit-taker which form part of its own funds for the purposes of Section 1 of Chapter 2 of Title V of the Banking Consolidation Directive (2006/48/EC). The definition in this section ensures that share transfer powers can be exercised to transfer complete control of a bank.

Section 15: Share transfer instrument

51. Share transfer instruments are made by the Bank of England to effect the transfer of a bank to a private sector purchaser (the stabilisation option as described in section 11). This section describes provision that a share transfer instrument may make. The instrument may relate to either specified securities or securities with a specified description.

Section 16: Share transfer order

52. Share transfer orders are made by the Treasury to effect the transfer of a bank to temporary public ownership. This section describes the provision that a share transfer order may make. The order may relate to either specified securities or securities of a specified description.

Section 17: Effect

53. This section makes further provision about the effects of a share transfer instrument or order. *Subsection (2)* makes clear that the transfer of securities takes place by operation of law. *Subsection (3)* makes provision for the transfer to take effect regardless of any restriction (including any requirement for consent and restrictions arising by contract—such as a non-assignment clause—or legislation). Provision is also made for the share transfer instrument or order to be carried out free from any encumbrances (such as

a trust), which may be extinguished under the order *(subsection (5))*. *Subsection (6)* allows for the extinguishment of rights to acquire securities (for example, such as share options).

Section 18: Continuity

54. This section states that when a share transfer instrument or order is made, provision can be made to ensure the continuity of arrangements operating in respect of a bank.

55. *Subsection (1)* enables the share transfer instrument or order to include provision that the transferee can be treated as the same person as the transferor for any purpose connected with the transfer.

56. *Subsection (2)* enables the share transfer instrument or order to include provision that agreements made or other things done by or in relation to a transferor are treated as made or done by or in relation to the transferee. This provision would enable for example, the transferred deposit taker to continue to benefit from arrangements entered into by the transferors, notwithstanding any rights triggered on the transfer.

57. *Subsection (3)* allows for transitional provision about things transferred to be continued. This can include continuation of legal proceedings by or in relation to the transferee. *Subsection (4)* allows for the modification of references to the transferor in instruments or documents. *Subsection (5)* allows for provision of information to be required or permitted between the transferor and the transferee of a share transfer instrument or order.

Section 19: Conversion and delisting

58. This section allows for the conversion and delisting of securities (the power applies to all of a specified bank's securities, whether transferred or not).

59. A share transfer instrument or order may make provision, for example, for the conversion of securities from one form to another (to deal, for example, with the conversion of uncertificated or bearer securities into certificated securities or the conversion of a special class of shares into ordinary shares).

60. *Subsection (2)* provides that a share transfer instrument or order may make provision for discontinuing the listing of securities issued by the specified bank on a UK regulated market.

Section 20: Directors

61. *Subsections (1)* and *(2)* allow for the Bank of England, in relation to a share transfer instrument, and the Treasury, in relation to a share transfer order, to take various actions with regard to directors including appointment and removal, termination and variation of service contracts.

62. Appointments made by the Treasury and Bank of England are made on terms and conditions agreed by the institution making the appointment. Provision is also made for the Bank of England and Treasury to vary or terminate service contracts of directors.

Section 21: Ancillary instruments: production, registration, &c.

63. This section makes various provisions for share transfer instruments and orders concerning instruments and registration. It provides that the transfer has effect irrespective of production, delivery, transfer or other dealing with an instrument and irrespective of registration.

64. *Subsection (1)* allows for an instrument or order to make provision in relation to an instrument: a share transfer instrument or order may permit or require the execution,

issue or delivery of an instrument. *Subsection (4)* allows for an instrument to be modified or annulled by a share transfer instrument or order.

65. *Subsection (2)* specifies that a share transfer instrument or order may have immediate effect, regardless of registration (of the share transfer instrument or order) or the status of an instrument. *Subsection (3)* provides that a share transfer instrument or order may make provision for the effect of an instrument executed or issued in accordance with the provision of the share transfer instrument or order.

66. *Subsection (5)* provides for how a share transfer instrument or order may entitle a transferee to be registered or require a person to effect registration in respect of the transferred securities of the specified bank.

Section 22: Termination rights, &c.

67. This section sets out certain provisions in relation to default event provisions of the two types set out in the section (dealing variously with termination rights, conditions precedent to performance, &c.) *Subsection (6)* allows for default event provisions not to be triggered in relation to a share transfer order or instrument. *Subsection (7)* provides default event provisions can be disapplied but with exceptions.

68. *Subsection (8)* means that default event provisions will be disapplied when they relate to the making of an order or instrument, anything that is to be done or may be done under or by virtue of the instrument or order and any action or decision taken or made under the Banking Act or another enactment which resulted in or was connected to the making of the order or instrument.

Section 23: Incidental provision

69. This section provides for a share transfer instrument or order to include incidental, consequential or transitional provision. Such provision may be made generally or for a specified purpose or purposes.

Section 24: Procedure: instruments

70. This section provides the procedure for making a share transfer instrument. The Bank of England must send a copy of a share transfer instrument, as soon as reasonably practicable, to the specified bank, the Treasury, the FSA and any other persons specified in the code of practice. The Bank of England should also publish the share transfer instrument. The Treasury is also required to lay a copy of the transfer instrument before Parliament.

Section 25: Procedure: orders

71. This section provides the procedure for making a share transfer order. Share transfer orders are made by statutory instrument by the Treasury subject to the negative procedure. The Treasury should send a copy of a share transfer order, as soon as reasonably practicable, to the specified bank, the Bank of England, the FSA and any other persons specified in the code of practice. The Treasury should also publish the share transfer order in line with the provisions of *subsection (3)*.

Section 26: Supplemental instruments

72. Where the Bank of England has made a share transfer instrument to a private sector purchaser, it may make additional supplemental share transfer instruments. These may provide for anything that a share transfer instrument may generally provide for, including a further transfer of securities meeting the description specified in *subsection (3)(a)*.

73. The general and specific conditions (sections 7 and 8 respectively) do not apply to supplemental transfers. The Bank must consult the FSA and the Treasury before making the instrument.

Section 27: Supplemental orders

74. Where the Treasury has made a share transfer order to take a bank into temporary public ownership, it may make additional supplemental share transfer orders. These may provide for anything that a share transfer order may generally provide for, including a further transfer of securities meeting the description specified in *subsection (3)(a)*.

75. The general and specific conditions (sections 7 and 9, respectively) do not apply to supplemental transfers. The Treasury must consult the Bank of England and the FSA before making the order.

Section 28: Onward transfer

76. Where the Treasury has made a share transfer order to bring a bank into temporary public ownership in accordance with section 13, it may make onward share transfer orders. These may provide for two things: first, for the transfer of securities meeting the description specified in *subsection (3)(a)*; and, second, for any provision in relation to the relevant securities. *Subsection (4)* stipulates that the transferee may not be the transferor under the original order.

77. The general and specific conditions (sections 7 and 9, respectively) do not apply to onward transfers. *Subsection (6)* provides that the Treasury must consult the Bank of England and the FSA before making the order.

78. *Subsection (7)* provides that the Treasury may make a supplemental share transfer order (as described in section 27) following the making of an onward share transfer order.

Section 29: Reverse share transfer

79. Where the Treasury has made a share transfer order to bring a bank into temporary public ownership in accordance with section 13, it may make reverse share transfer orders.

80. A reverse share transfer order may transfer securities in temporary public ownership back to the original transferors (i.e. the holders of the shares and other securities before the bank was taken into temporary public ownership). Alternatively, where there has been an onward transfer to a particular type of onward transferee, the order may transfer securities back from that onward transferee into temporary public ownership. The reverse share transfer powers could only be used in the case of an onward transfer, however, where the onward transferee was a company wholly owned by the Bank of England, a company wholly owned by the Treasury or a nominee of the Treasury. This limitation is to prevent the reverse share transfer powers from being exercisable in relation to an onward transfer to a private sector party who wished to acquire the bank from temporary public ownership.

81. The general and specific conditions (sections 7 and 9, respectively) do not apply to reverse transfers. *Subsection (6)* provides that the Treasury must consult the Bank of England and the FSA before making the order.

82. *Subsection (7)* provides that the Treasury may make a supplemental share transfer order (as described in section 27) following the making of a reverse share transfer order.

Section 30: Bridge bank: share transfers

83. Where the Bank of England has made a property transfer instrument to effect the bridge bank stabilisation option, it may make bridge bank share transfer instruments. These may provide for two things: first, for securities issued by the bridge bank to be

transferred; and, second, for other provision in relation to the securities of the bridge bank. Thus the Bank of England may transfer the securities of a bridge bank.

84. The general and specific conditions (sections 7 and 8, respectively) do not apply and *subsection (5)* provides that the Bank of England must consult the Treasury and the FSA before making the instrument.

85. *Subsection (6)* provides that the Bank of England may make a supplemental share transfer instrument (as described in section 26) following the making of a bridge bank share transfer instrument.

Section 31: Bridge bank: reverse share transfers

86. Where the Bank of England has made a bridge bank share transfer instrument to a company wholly owned by the Bank of England or the Treasury, or a nominee of the Treasury, the Bank of England may make bridge bank reverse share transfer instruments. A bridge bank reverse share transfer instrument provides for the transfer of securities of a bridge bank to be transferred back from such an onward transferee.

87. The general and specific conditions (sections 7 and 8, respectively) do not apply to reverse transfers and *subsection (5)* provides that the Bank of England must consult the Treasury and the FSA before making the instrument.

Section 32: Interpretation: general

88. This section defines references to “service contract” and “transfer date”.

Transfer of property

Section 33: Property transfer instrument

89. Property transfer instruments may be made by the Bank of England to effect a transfer to a private sector purchaser or to a bridge bank (sections 11 and 12). This section describes the provision that a property transfer instrument may make. The instrument may transfer some or all of the property, rights or liabilities of a specified bank. The instrument may relate to specified combinations of the specified bank’s property, rights or liabilities, although this is subject to restrictions which may be imposed by the exercise of order making powers under section 47.

Section 34: Effect

90. A transfer of property, rights or liabilities is effected through a property transfer instrument (section 33). *Subsections (3)* and *(4)* make provision for the transfer to take effect regardless of any legislative or contractual restriction, including requirements for consent (or any other restrictions which might render property not transferable).

91. *Subsections (5)* and *(6)* provide that a transfer may be made conditional on events occurring or not occurring, and may provide for the consequences should such a condition be breached. *Subsection (7)* makes provision about trusts.

Section 35: Transferable property

92. This section makes provision for a property transfer instrument to transfer any property, rights or liabilities. Such property, rights and liabilities are expressed to include those acquired or arising between the making of the instrument and the transfer date, and any rights and liabilities arising on or after the transfer date in respect of matters occurring before that date. Paragraphs (c) and (d) of *subsection (1)* provide that foreign property may be transferred. Paragraph (e) provides that rights and liabilities under enactments may be the subject of a transfer.

Section 36: Continuity

93. This section states that, when a property transfer instrument is made, provision can be made to ensure the continuity of arrangements operating in respect of a bank.

94. *Subsection (1)* enables the property transfer instrument to include provision that the transferee can be treated as the same person as the transferor for any purpose connected with the transfer and for the transfer to be treated as a succession.

95. *Subsection (2)* enables the property transfer instrument to include provision that agreements made or other things done by or in relation to a transferor are treated as made or done by or in relation to the transferee. This provision would enable, for example, the transferred deposit taker to continue to benefit from arrangements entered into by the transferor, notwithstanding any rights triggered on the transfer.

96. *Subsection (3)* allows for transitional provision about things relating to things transferred to be continued. This can include continuation of legal proceedings by or in relation to the transferee.

97. *Subsection (4)* allows for provision to be included in a property transfer instrument about continuity of employment.

98. *Subsection (5)* allows for the modification of references to the transferor in instruments or documents.

99. *Subsection (6)* provides that in so far as rights and liabilities in respect of anything transferred are enforceable after a transfer date, a property transfer instrument can apportion them as between the transferor and the transferee.

100. *Subsection (7)* provides that the transferor and the transferee may, by agreement, modify a provision of the instrument. However such a modification must achieve a result that could have been achieved by the instrument, and may not transfer (or arrange the transfer of) property rights or liabilities.

101. *Subsection (8)* allows for provision of information and assistance to be required or permitted between the transferor and the transferee under a property transfer instrument.

Section 37: Licences

102. This section makes provision in relation to licences.

103. *Subsection (1)* provides that a licence in respect of property transferred by property instrument shall continue to have effect notwithstanding the transfer. *Subsection (2)* provides that the Bank of England may disapply subsection (1), so that a licence may be discontinued. *Subsection (3)* specifies that where a licence imposed rights or obligations, a property transfer instrument may apportion responsibility for exercise or compliances between the transferor and transferee.

Section 38: Termination rights, &c.

104. This section makes similar provision in relation to default event provisions for property transfers as that made for share transfers by section 22.

Section 39: Foreign property

105. This section describes how a property transfer instrument may make provision for the transfer of property situated outside the United Kingdom and rights and liabilities governed by foreign law.

106. *Subsection (3)* states that both the transferor and the transferee must take any necessary steps to ensure that the transfer is effective as a matter of foreign law.

107. *Subsection (4)* makes provision for the period before a transfer may be fully effective as a matter of foreign law. For this period, the transferor must act on behalf of the transferee by holding any property or right for its benefit and discharging any liability on its behalf. Expenses incurred by the transferor in relation to these acts must be met by the transferee.

108. *Subsections (6)* and *(7)* relate to obligations imposed by the operation of this section. Such obligations are enforceable as contracts and the Bank of England may give directions in relation to those obligations, with which the transferor must comply.

Section 40: Incidental provision

109. This section provides for a property transfer instrument to include incidental, consequential or transitional provision. Such provision may be made generally or for a specified purpose or purposes.

Section 41: Procedure

110. This section requires the Bank of England to send a copy of a property transfer instrument, as soon as reasonably practicable, to the specified bank, the Treasury, the FSA and any other persons specified in the code of practice. The Bank of England must also publish the property transfer instrument in line with the provisions of *subsection (2)*. The Treasury is also required to lay a copy of the transfer instrument before Parliament.

Section 42: Supplemental instruments

111. Where the Bank of England has made a property transfer instrument it may make additional supplemental property transfer instruments. These may provide for two things: first, for property, rights and liabilities to be transferred from the original transferor; and, second, for anything that a property transfer instrument may otherwise provide for.

112. *Subsection (4)* provides that the general and specific conditions (sections 7 and 8, respectively) do not apply to supplemental transfers.

113. *Subsection (5)* provides that the Bank of England must consult the FSA and the Treasury before making the instrument.

Section 43: Onward transfer

114. Where the Bank of England has made a property transfer instrument to effect the bridge bank stabilisation option, it may make onward property transfer instruments. These may provide for two things: first, for the property, rights or liabilities of the bridge bank to be transferred; and, second, for anything that a property transfer instrument may otherwise provide for. *Subsection (5)* provides that the Bank of England may not transfer property, rights or liabilities to the transferor under the original instrument.

115. Under *subsection (6)*, the general and specific conditions (sections 7 and 8) do not apply to onward transfers. *Subsection (7)* requires the Bank of England to consult the Treasury and the FSA before making the instrument.

116. *Subsection (8)* states that the Bank may make a supplemental property transfer instrument (as provided for in section 42) following the making of an onward property transfer instrument.

Section 44: Reverse property transfer

117. Where the Bank of England has made a property transfer instrument to effect the bridge bank stabilisation option, it may make reverse property transfer instruments.

118. A reverse property transfer instrument may transfer property, rights or liabilities of a bridge bank back to the original transferor (i.e. the failing bank). Alternatively, where there has been an onward transfer to a particular type of onward transferee, the instrument may transfer property back from that onward transferee to the bridge bank. The reverse property transfer powers could only be used in this case, however, where the onward transferee was a company wholly owned by the Bank of England, a company wholly owned by the Treasury or a nominee of the Treasury. This limitation is to prevent the reverse property transfer powers from being exercisable following an onward transfer to a private sector party who wished to acquire the business of a bridge bank.

119. The general and specific conditions (sections 7 and 8, respectively) do not apply to reverse transfers. *Subsection (6)* provides that the Bank of England must consult the Treasury and the FSA before making the instrument.

120. *Subsection (7)* states that the Bank of England may make a supplemental property transfer instrument (as described in section 42) following the making of a reverse property transfer instrument.

Section 45: Temporary public ownership: property transfer

121. Where the Treasury have made a share transfer order to bring a bank into temporary public ownership, it may make property transfer orders. These may provide for two things: first, for the transfer of the property, rights or liabilities of the bank in temporary public ownership; and, second, for anything that a property transfer instrument may otherwise provide for. *Subsection (4)* provides that the general and specific conditions (sections 7, 8 and 9) do not apply to property transfers from temporary public ownership. The Treasury must consult the Bank of England and the FSA before making the order.

122. *Subsection (6)* provides that a property transfer order should be treated, in procedural terms, as a share transfer order (see section 16). In all other respects, however, it should be treated as a property transfer instrument (see section 33).

123. *Subsection (8)* states that the Treasury may make a supplemental property transfer order (as described in section 42) following the making of temporary public ownership property transfer order.

Section 46: Temporary public ownership: reverse property transfer

124. Where the Treasury have made a property transfer to a company wholly owned by the Bank of England or the Treasury, or a nominee of the Treasury, the Treasury may make reverse property transfer orders.

125. A reverse property transfer order provides for the transfer of property back from such an onward transferee.

126. The general and specific conditions (sections 7, 8 and 9, respectively) do not apply to onward transfers and *subsection (7)* provides that the Treasury must consult the Bank of England and the FSA before making the order.

Section 47: Restriction of partial transfers

127. This power enables restrictions to be placed on the making of partial transfers through the property transfer powers. A partial transfer is the transfer of some, but not all, of a bank's property, rights or liabilities (as defined in *subsection (1)*).

128. *Subsection (2)* provides that Treasury may, by order, impose restrictions on partial transfers in the ways which are set out in *subsection (2)*, as supplemented by *subsections (3)* and *(4)*. This enables restrictions to be imposed by reference to the nature of the property, rights and liabilities which may or may not form part of the transfer. It also

permits conditions to be imposed before a partial transfer can be undertaken, and can require partial transfers to include particular provisions.

129. The power is exercisable by the Treasury making an order by statutory instrument subject to the affirmative procedure *(subsection (5)),* or in the first instance the 28 day procedure, as provided by section 259.

Section 48: Power to protect certain interests

130. This power enables certain private law rights to be protected when the property transfer powers are exercised to effect a partial transfer. A partial transfer is the transfer of some, but not all, of a bank's property, rights or liabilities (as defined in subsection (1) of Section 47).

131. *Subsection (1)* broadly defines the certain interests ("protected interests") for which the power may provide protection. This provision reflects the extremely broad range of relevant interests which exist in this field. The interests which the exercise of the power is intended to cover may include, for example, security interests and set-off and netting arrangements.

132. Under the power, such interests may be protected in the ways set out in *subsection (2),* as supplemented by *subsection (3).*

133. The power is exercisable by the Treasury making an order by statutory instrument subject to the affirmative procedure (*subsection (6)*), or in the first instance the 28 day procedure, as provided by section 259.

Compensation

Section 49: Orders

134. This section describes three types of orders which may be made for the purposes of providing compensation in consequence of the exercise of the stabilisation powers.

135. *Subsection (2)* describes a compensation scheme order. It may establish a scheme simply for paying compensation to transferors, or it may establish a scheme for determining whether transferors should be paid compensation. The identity of the transferor or transferors depends on the stabilisation power exercised. In the case of share transfer powers, the transferors will be the holders of the securities which were transferred under the order. In the case of property transfer powers, the transferor will be the bank from whom property, rights or liabilities were transferred.

136. *Subsection (3)* describes the resolution fund order, which establishes a scheme under which the transferors may become entitled to the proceeds of resolution of a bridge bank or of a bank in temporary public sector ownership.

137. *Subsection (4)* describes a third party compensation order, which establishes a scheme for paying compensation to third parties (persons who are not transferors), for example counterparties of a bank whose property rights are interfered with in a compensatable way (under Article 1 of the First Protocol to the European Convention on Human Rights) as a result of the transfer.

Section 50: Sale to private sector purchaser

138. This section requires the Treasury to make a compensation scheme order, on the exercise by the Bank of England of the private sector purchaser stabilisation option (section 11) (a property or share transfer instrument to such a purchaser). *Subsection (3)* sets out that the order may include a third party compensation order.

Section 51: Transfer to temporary public ownership

139. This section requires, on the exercise by the Treasury of the temporary public ownership stabilisation option, the Treasury to make either make a resolution fund order (which may include a compensation scheme order) or a compensation scheme order. In either case, the order may include a third party compensation order.

Section 52: Transfer to bridge bank

140. This section requires, on the exercise by the Bank of England of the bridge bank stabilisation option (section 12), the Treasury to make a resolution fund order (further considered under section 58 below). *Subsection (3)* provides that the order may include a compensation scheme order and a third party compensation order.

Section 53: Onward and reverse transfers

141. Where there is an onward or reverse transfer from either a bridge bank or a bank in temporary public sector ownership, This section enables the Treasury to make a compensation scheme order or a third party compensation order.

Section 54: Independent valuer

142. *Subsection (1)* allows a compensation scheme order and a third party compensation order to include provision for the amount of compensation to be determined by an independent valuer. *Subsection (2)* requires the Treasury to appoint a person to appoint the independent valuer, and in practice the Government anticipates that an appointments panel will be convened for this purpose. Two different methods for appointing the valuer are provided in *subsection (3)*; namely, for the Treasury to arrange to identify candidates or provide that another person will arrange to appoint a valuer.

143. *Subsection (4)* states that the independent valuer can be removed only on grounds of incapacity or serious misconduct. The removal must be made by a person specified by the Treasury in accordance with the order. *Subsection (5)* states that the order must include provision for resignation and replacement of the independent valuer.

Section 55: Independent valuer: supplemental

144. *Subsection (1)* enables the independent valuer to do anything necessary or desirable in relation to the performance of his functions. *Subsections (2)* to *(4)* enable the Treasury by order to make provision to assist the independent valuer in the discharge of his functions, for example by providing him with certain powers.

145. *Subsection (4)* gives the independent valuer the power to appoint staff.

146. *Subsection (6)* requires the order to provide for the reconsideration of the decisions of the valuer, and for onward rights of appeal from the valuer to a court or tribunal.

147. Under *Subsection (7)* the independent valuer and his staff are not servants of the Crown, and *subsection (8)* provides that the records of the independent valuer are public records for the purposes of the Public Records Act 1958.

Section 56: Independent valuer: money

148. *Subsection (1)* allows the order to make provision for the remuneration and allowances of the independent valuer, his staff, appointing persons or monitors. Although such payments will be made by the Treasury, the order will require the Treasury to appoint a person to monitor the arrangements made for the remuneration and allowances *(subsection (2))*. Further functions may be conferred on the monitor, such as requiring his approval to certain actions.

149. *Subsections (2)(c)* and *(d)* give the Treasury a power to include provision in the order about records, accounts and staff resources. This section also provides that the independent valuer and his staff are not liable for damages for anything done in good faith when undertaking their respective roles in relation to independent valuation (save in respect of awards of damages under the Human Rights Act 1998, for unlawful actions under that Act).

Section 57: Valuation principles

150. *Subsection (1)* allows a compensation scheme order and a third party compensation order (by virtue of *subsection (6))* to specify valuation principles to be applied during the determination of the amount of compensation. *Subsection (2)* provides that valuation principles may require an independent valuer to apply specific methods of valuation, assess values at specified dates or periods, take specified matters into account or not take specified matters into account.

151. *Subsection (3)* requires the valuer to disregard actual or potential financial assistance provided by the Bank of England or Treasury (other than ordinary market assistance offered by the Bank on its usual terms).

152. *Subsection (4)* sets out assumptions as to the position of the bank that can or may be required to be taken into account by the valuer. These include that the bank has had a permission under Part 4 of Financial Services and Markets Act 2000 varied or cancelled; that it is unable to continue as a going concern; that it is in administration; or that it is being wound up. *Subsection (5)* provides that there is nothing to prevent the application of valuation principles from resulting in no compensation being payable.

Section 58: Resolution fund

153. A resolution fund order may provide for persons to share in the proceeds of the disposal of things transferred (for example, the full or partial sale of a bridge bank whether through business or share transfer). *Subsection (1)* further provides for the order to provide for how proceeds and shares are to be calculated.

154. *Subsection (2)* allows for any payments to be net of resolution costs, which include public financial assistance or administrative expenses.

155. *Subsection (3)* provides that a third party compensation order may include provisions for arranging to appoint an independent valuer and to apply the valuation principles. *Subsection (4)* provides that a resolution fund order can confer discretion on persons and *subsection (5)* provides that it may include provision for the determination of disputes about the application of its provisions.

156. *Subsection (6)* allows the Treasury to place a management duty on the Bank of England in managing the bridge bank and set out how the Bank is to meet this duty. *Subsection (7)* enables a similar duty to be imposed on the Treasury, in cases where the Treasury elects to make a resolution fund order following a transfer of a bank to temporary public ownership.

157. *Subsection (8)* provides that the duties are only to be complied with to the extent that this is compatible with the pursuit of the special resolution objectives and compliance with the code of practice.

Section 59: Third party compensation: discretionary provision

158. *Subsection (1)* provides that a third party compensation order is about setting up a scheme for determining any compensation to be paid to persons other than a transferor, for example, any creditors of the failed bank who have suffered compensatable interference with a property right. Compensation for transferors is dealt with under compensation scheme orders.

159. *Subsection (2)* provides that a third party compensation order can be a part of a compensation scheme order or a resolution fund order or may be separate.

160. *Subsection (3)* provides that a third party compensation order may include provisions for arranging to appoint an independent valuer and to apply the valuation principles.

Section 60: Third party compensation: mandatory provision

161. This section contains a power to make regulations about third party compensation orders made in the circumstances where a partial transfer of the property of a failed bank has taken place.

162. *Subsection (2)* sets out the principle that where a residual bank enters an insolvency procedure following such a transfer, pre-transfer creditors (defined in *subsection (3)(b))* should not receive less favourable treatment they would have received than had the bank entered an insolvency procedure prior to the partial transfer. The Treasury are to have regard to the principle in making regulations under the section.

163. *Subsection (4)* provides that the regulations may require a third party compensation order to be made. The regulations may also require a third party compensation order to include certain provisions or the regulations may make provisions that are deemed to be a part of the third party compensation orders.

164. *Subsection (5)* enables the regulations to provide for whether compensation is to be paid, its amount and the factors upon which the determination of the amount is to be made. Any factors could be included, particular factors are, in part, the amount payable under a resolution fund order, contingent events and a determination by an independent valuer.

165. The regulations are to be made by the affirmative procedure, or in the first instance the 28 day procedure, as provided by section 259.

Section 61: Sources of compensation

166. This section confers an express power on the Treasury to make provision as to who should pay compensation under a compensation scheme order, resolution fund order, third party compensation order or under regulations made under section 60. It enables provision to be made for the FSCS, the Treasury or another person (e.g. a purchaser) to pay compensation. Any provision requiring the FSCS to pay compensation is subject to the provisions of section 171 of the Act.

Section 62: Procedure

167. The procedure for a compensation scheme order, a resolution fund order and a third party compensation order is that they must be made by statutory instrument subject to the draft affirmative procedure.

Incidental functions

Section 63: General continuity obligation: property transfers

168. This section provides for services to be provided to a transferee from the transferor and other companies within the group through means of a general obligation, following a transfer of property. *Subsection (5)* provides that the obligation is not limited to the provision of services and facilities directly to the transferee.

169. *Subsection (2)* provides that the residual bank and each group company (as defined in *subsection (1)*) must provide such services and facilities as required to enable the transferee to operate the transferred business effectively. This duty may be enforced as a contract *(subsection (3))*.

170. As provided by *subsection (6)*, the Bank of England may, with the consent of the Treasury, by notice to the residual bank or group company require specific activities to be undertaken (or provide that activities are to be undertaken on specific terms).

171. *Subsection (4)* provides that the residual bank or group company has a right to reasonable consideration.

Section 64: Special continuity obligations: property transfers

172. This section provides for the Bank of England, through a property transfer instrument, to create or vary rights and obligations between a transferee, a residual bank and group companies. It applies following the exercise of property transfer powers.

173. *Subsection (2)* describes the particular provision which the Bank of England can make in a property transfer instrument in this connection.

174. *Subsection (3)* provides that the Bank of England shall aim, so far as is reasonably practicable, to preserve or include provision for reasonable consideration and terms.

175. *Subsection (4)* provides that the powers under subsection (2) may be exercised only in so far as the Bank of England thinks it necessary to ensure the provision of such services and facilities as are required to operate the transferred business effectively. The power may be exercised only with the consent of the Treasury.

Section 65: Continuity obligations: onward property transfers

176. This section provides for the Bank of England or the Treasury to extend the general continuity obligation of section 63 or special continuity obligations of section 64 in the circumstances of an onward transfer of property, rights or liabilities (so, for example, continuity obligations could be owed to the onward transferee).

177. *Subsection (1)* defines the terms “onward transfer” and “onward transferee”. *Subsection (4)* provides that onward obligations may be imposed on an original transferee, a residual bank, a bank transferred by share transfer or anything which is or was a group undertaking of the foregoing. *Subsection (5)* provides that onward obligations may be in addition to, or replace, initial obligations.

178. The power under this section is exercisable by giving a notice both to each person on whom a continuity obligation is to be imposed, and the person who is expected to benefit from it. The Bank of England may exercise the power only with the consent of the Treasury.

Section 66: General continuity obligation: share transfers

179. This section makes provision for services to be provided in respect of a bank transferred by share transfer from former group companies through means of a general obligation. *Subsection (5)* provides that the obligation is not limited to the provision of services and facilities directly to the transferee.

180. *Subsection (2)* provides that each former group company (as defined in *subsection (1)*) must provide such services and facilities as required to enable the transferred bank to operate effectively. This duty may be enforced as a contract (*subsection (3)*).

181. As provided by *subsection (6)*, the Treasury or Bank of England (with the consent of the Treasury), may by notice to the former group company (as described in *subsection (7)*), state that specific activities on specific terms should be undertaken.

182. *Subsection (4)* provides that the former group company has a right to reasonable consideration.

Section 67: Special continuity obligations: share transfers

183. This section provides for the relevant authority, through share transfer instrument or order, to create or vary rights and obligations between a transferred bank and former group companies. It applies following the exercise of share transfer powers.

184. *Subsection (2)* provides for how the Treasury or the Bank of England (with the consent of the Treasury) may create, modify or cancel contracts between the transferee, and the group company (as defined in section 63).

185. *Subsection (3)* provides that the continuity authority shall aim, so far as is reasonably practicable, to preserve or include provision for reasonable consideration and terms.

186. *Subsection (4)* provides that the powers under subsection (2) may be exercised only in so far as the Bank of England or Treasury thinks it necessary to ensure the provision of such services and facilities as are required to enable the transferred bank to operate effectively.

Section 68: Continuity obligations: onward share transfers

187. This section provides for the Bank of England or the Treasury to extend the general continuity obligation of section 66 or special continuity obligations of section 67 in the circumstances of an onward transfer of securities (so, for example, continuity obligations could be owed to the transferred bank following the onward transfer).

188. *Subsection (1)* defines the term “onward transfer”. *Subsection (4)* provides onward obligations may be imposed on the bank, anything which is or was a group undertaking of the bank, anything which is or was a group undertaking of a residual bank, or any combination. *Subsection (5)* provides that onward obligations may be in addition to, or replace, initial obligations.

189. The power under this section is exercisable by giving a notice both to each person on whom a continuity obligation is to be imposed, and the person who is expected to benefit from it. The Bank of England may exercise the power only with the consent of the Treasury.

Section 69: Continuity obligations: consideration and terms

190. This section provides the Treasury with a power, by order, to specify matters which are to be or not to be considered in determining what amounts to reasonable consideration for the purposes of general continuity obligations. Secondary legislation may also specify matters which are to be or not to be considered in determining what provisions would be expected in arrangements concluded between parties dealing at arm’s length (with regard to special continuity obligations).

191. The power is subject to the negative resolution procedure.

Section 70: Continuity obligations: termination

192. This section provides that the continuity authority may by notice terminate a general continuity obligation.

Section 71: Pensions

193. This section allows for a share transfer instrument or order or a property transfer instrument to make provision in relation to pensions. The power may be exercised to make provision about the consequences of a transfer of securities or property etc. for pension schemes. For example, the need to make such provision could arise when the pension schemes of employees who are subject to the transfer form part of the pension scheme of a wider corporate group.

194. *Subsection (5)* provides that this power may be exercised only by the Bank of England, with the consent of the Treasury.

Section 72: Enforcement

195. The purpose of this section is to enable provision to be made as to the enforcement obligations arising under share transfer instruments and orders and property transfer instruments.

196. Provision may not create a criminal offence or impose a penalty, but may impose jurisdiction on a court or tribunal, this may include a creating an enforceable private law right or statutory duty.

Section 73: Disputes

197. This section makes provision for share transfer orders or instruments or property transfer orders made by the Treasury to include a method for disputes to be determined. Such a method may include conferring jurisdiction on a particular court or tribunal or discretion on a specified person.

Section 74: Tax

198. This section enables the Treasury to make regulations including provision in relation to tax in connection with the exercise of powers in this Part of the Act.

199. *Subsection (2)* sets out the taxes in relation to which provision may be made.

200. *Subsections (3), (4), (5)* and *(6)* set out the effects which the regulations may have. The regulations may have retrospective effect but only up to three months before the date the stabilisation power is first exercised in relation to the bank concerned.

201. *Subsection (7)* allows the Treasury to change the taxes listed in subsection (2) by order. *Subsection (8)* makes provision about the procedures for making regulations and orders.

Section 75: Power to change law

202. This section enables the Treasury to modify legislation (both primary and secondary, excluding, however, the provisions of the Act, and secondary legislation to be made under it (other than orders and instruments made in exercise of a stabilisation power)) and the provisions of common law for the purpose of enabling the powers in Part 1 to be used effectively, having regard to the objectives of the special resolution regime. *Subsection (3)* provides that such an order may make provision which has retrospective effect, although the Treasury is to have regard to the fact that it is in the public interest to avoid retrospective legislation).

203. The power is to be exercised by order and is subject to the affirmative procedure. In cases of necessity (in practice, where the power needed to be exercised urgently), the section makes provision for the Treasury to make the order immediately, following which there are 28 days for both Houses of Parliament to approve the order, failing which, the order would lapse. *Subsection (8)* states that a lapse of an order does not prevent another order being made in new terms.

Treasury

Section 76: International obligation notice: general

204. This section makes provision about the role of the Treasury in meeting international obligations when the stabilisation powers are being exercised.

205. *Subsection (1)* provides that the Treasury, by notice in writing, may require the Bank of England not to exercise a stabilisation power where that exercise would be likely to

contravene an international obligation of the UK. *Subsection (2)* sets out the procedure for such notices. *Subsection (3)* provides that, if the Treasury gives notice that an action would be likely to contravene an international obligation, then the Bank of England must consider alternative actions, which both pursue the SRR objectives and avoid the objections on which Treasury's notice or refusal was based. *Subsection (4)* allows the Treasury, by notice, to disapply the requirement to consider alternative actions (as set out in subsection (3)). Such notice may be revoked.

Section 77: International obligation notice: bridge bank

206. This section makes provision about the role of the Treasury with regard to meeting international obligations when controlling a bridge bank.

207. *Subsection (2)* states that the Bank of England must comply with any notice provided by the Treasury, for the purpose of ensuring compliance by the UK with its international obligations, to take or not to take specified action in respect of a bridge bank.

208. *Subsection (3)* sets out the procedure for such notices.

209. *Subsection (4)* provides that a notice may include requirements on timing.

Section 78: Public funds: general

210. This section makes provision about the role of the Treasury with regard to public funds when the stabilisation powers are being exercised. It provides that the Bank of England may not exercise a stabilisation power without the Treasury's consent if the exercise would be likely to have implications for public funds.

211. *Subsection (2)* defines public funds and implications for public funds.

212. *Subsection (3)* provides the Treasury with the power, by order, to specify considerations that should or should not be taken into account in determining whether action has implications for public funds.

213. *Subsection (4)* requires the Bank to consider another exercise of the stabilisation powers if the Treasury has refused consent. In doing so the Bank must pursue the special resolution regime objectives and avoid the objections that the Treasury first made.

214. *Subsection (5)* allows the Treasury, by notice, to disapply the requirement to consider alternative actions (as set out in subsection (4)). Such notice may be revoked.

Section 79: Public funds: bridge bank

215. This section makes provision about the role of the Treasury with regard to public funds when controlling a bridge bank

216. *Subsection (2)* states that the Bank of England may not take any action in respect of the bridge bank without the Treasury's consent if the action would be likely to have implications for public funds.

217. *Subsection (3)* applies section 78(2) and (3) for the purpose of this section.

Section 80: Bridge bank: report

218. This section sets out requirements for the Bank of England to report to the Treasury on the activities of a bridge bank.

219. *Subsections (2)* and *(3)* requires the first report to be made as soon as is reasonably practicable after the end of one year and each subsequent year.

220. *Subsection (4)* requires the Chancellor of the Exchequer to lay a copy of the reports mentioned in subsections (2) and (3) before Parliament.

221. *Subsection (5)* requires the Bank of England to comply with any request of the Treasury for a report dealing with specified matters in relation to the bridge bank. The request may include the content or timing (*subsection (6)*).

Section 81: Temporary public ownership: report

222. This section requires the Treasury to lay before Parliament an annual report about banks in temporary public ownership.

Holding companies

Section 82: Temporary public ownership

223. Section 82 provides that the Treasury may take a parent undertaking of a bank ("a holding company") into temporary public ownership if three conditions are met. These conditions are that the FSA are satisfied that the general conditions set out in section 7 are met in relation to the bank; that the Treasury are satisfied that it is necessary to take action in respect of the holding company to resolve or reduce a serious threat to the stability of the financial systems of the United Kingdom or to protect the public interest where financial assistance has been provided in certain circumstances; and that the holding company is an undertaking incorporated in or formed under the law of the United Kingdom.

224. In determining whether the second condition is met, the Treasury must consult the FSA and the Bank of England.

Section 83: Supplemental

225. Section 83 specifies how various provisions of Part 1 of the Act (including the powers to make supplementary, onward and reverse transfers) apply where the Treasury take a bank's holding company into temporary public ownership.

Building societies

Section 84: Application of Part 1: general

226. This section applies the SRR sections (with modifications) to building societies. The table sets out these provisions where modifications are made, namely that for a private sector purchaser of a building society a share transfer instrument cannot be made, that there is a separate provision for the temporary public sector ownership tool and that a property instrument for building societies may cancel shares in the building society may confer rights and impose liabilities in place of the cancelled shares and deemed shares, and also confer rights and impose liabilities through actual or deemed shares in a building society.

227. It also provides that a property transfer instrument may have effect without causing parts of the Building Societies Act 1986 to apply (see section 34). A compensation scheme order or a third party compensation order may be made to compensate a building society and its creditors. However, a resolution fund order may not be made for temporary public sector ownership of building societies.

Section 85: Temporary public ownership

228. This section provides the powers to take a building society into temporary public ownership.

229. *Subsection (1)* sets out the procedure and provides that the Treasury may make an order to arrange for deferred shares of a building society to be publicly owned, to cancel private membership rights in the building society, to allow the building society

to continue business while in public ownership and for the eventual winding up or dissolution of the building society.

230. *Subsection (2)* allows the Treasury by order to arrange for the transfer of existing deferred shares or provide for the issue of new deferred shares.

231. *Subsection (3)* sets out the specific powers for the arranging for the transfer of existing deferred shares, and *subsection (4)* does the same for the purpose of providing for the issue of new deferred shares by the Treasury on behalf of the building society for a specified recipient.

232. *Subsection (5)* provides powers to cancel private membership rights in the building society, to allow the rights and liabilities attached to those cancelled shares to be conferred in place of cancelled shares and to prevent any further issue or acquisition of shares in the building society otherwise than under the Treasury's order.

233. *Subsection (6)* allows the Treasury to make any provision that it thinks desirable to allow the building society to continue in business while it is in public ownership.

234. *Subsection (7)* allows the order to disapply or modify the memorandum or rules of a building society in respect of the transfer into public ownership and to make any consequential changes to building society legislation.

235. *Subsection (8)* applies most provisions relating to the making of share transfer orders to orders made under this section.

Section 86: Distribution of assets on dissolution or winding up

236. This section allows the Treasury to make provision by order for the distribution of surplus assets of a building society that is subject to a property transfer and then later wound up or dissolved. The order may, for example, also alter priorities on a building society's dissolution or winding up.

237. *Subsection (4)(c)* makes an order under this section subject to the affirmative procedure.

Section 87: Interpretation

238. This section states that expressions used in this group of sections (84 to 88) have the same meaning as in the Building Societies Act 1986. It further states that an order under section 119(1) of the Building Societies Act may make special provision for the meaning of deferred shares with regard to this group of sections.

Section 88: Consequential provision

239. The Treasury may, by order, make any consequential provisions to primary and secondary legislation (but not Acts of the Scottish Parliament or secondary legislation made under those acts) required as a result of the application of the special resolution regime to building societies. Any order made under This section is subject to the affirmative procedure.

Section 89: Credit Unions

240. This section allows the Treasury, by secondary legislation, to apply the SRR sections to credit unions. An order for this purpose may disapply, modify or apply any enactment, which relates to credit unions in respect of this Part. The order is made by affirmative resolution procedure.