



# Banking Act 2009

## 2009 CHAPTER 1

### PART 1

#### SPECIAL RESOLUTION REGIME

#### [<sup>F1</sup>CHAPTER 3

#### SPECIAL RESOLUTION ACTION]

#### *Objectives and code*

#### **4 Special resolution objectives**

- (1) This section sets out the special resolution objectives.
- (2) The relevant authorities shall have regard to the special resolution objectives in using, or considering the use of—
  - (a) the stabilisation powers,
  - (b) the bank insolvency procedure, or
  - (c) the bank administration procedure.
- (3) For the purpose of this section the relevant authorities are—
  - (a) the Treasury,
  - [<sup>F1</sup>(b) the PRA,
  - (ba) the FCA, and]
  - (c) the Bank of England.
- [<sup>F2</sup>(3A) Objective 1 is to ensure the continuity of banking services in the United Kingdom and of critical functions.
- (4) Objective 2 is to protect and enhance the stability of the financial system of the United Kingdom, including in particular by—

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- (a) preventing contagion (including contagion to market infrastructures such as investment exchanges, clearing houses [<sup>F3</sup>, recognised CSDs within the meaning of section 285 of the Financial Services and Markets Act 2000] and central counterparties [<sup>F4</sup>authorised or recognised in the United Kingdom in accordance with Article 14 or 25] of Regulation (EU) 648/2012 of the European Parliament and the Council of 4th July 2012 on OTC derivatives, central counterparties and trade repositories) [<sup>F5</sup>as it forms part of [<sup>F6</sup>assimilated] law], and
  - (b) maintaining market discipline.
- (5) Objective 3 is to protect and enhance public confidence in the stability of the financial system of the United Kingdom.
- (6) Objective 4 is to protect public funds, including by minimising reliance on extraordinary public financial support.
- [<sup>F7</sup>(7) Objective 5 is to protect investors and depositors to the extent that they have investments or deposits covered by the FSCS.]
- (8) Objective 6, which applies in any case in which client assets may be affected, is to protect those assets.
- (9) Objective 7 is to avoid interfering with property rights in contravention of a Convention right (within the meaning of the Human Rights Act 1998).]
- (10) The order in which the objectives are listed in this section is not significant; they are to be balanced as appropriate in each case.

#### Textual Amendments

- F1** S. 4(3)(b)(ba) substituted for s. 4(3)(b) (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 17 para. 5](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F2** S. 4(3A)-(9) substituted for s. 4(4)-(9) (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\), arts. 1\(2\), 8\(2\)](#)
- F3** Words in s. 4(4)(a) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), reg. 1, Sch. para. 13](#) (with regs. 7(4), 9(1))
- F4** Words in s. 4(4)(a) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\), reg. 1\(2\), Sch. 1 para. 7\(2\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in s. 4(4)(a) substituted (31.12.2020 immediately before IP completion day) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\), regs. 1\(4\), 39\(3\)](#)
- F6** Word in s. 4(4) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\), reg. 1\(2\), Sch. para. 68\(2\)\(b\)](#)
- F7** S. 4(7) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\), reg. 1\(2\), Sch. 1 para. 7\(3\)](#); 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

- I1** S. 4 in force at 21.2.2009 by [S.I. 2009/296, art. 3, Sch. para. 1](#)

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## 5 Code of practice

- [<sup>F8</sup>(1) The Treasury shall issue a code of practice about—
- (a) the discharge of the duty imposed by section 6B (mandatory write-down, conversion etc of capital instruments), and
  - (b) the use of—
    - (i) the stabilisation powers,
    - (ii) the bank insolvency procedure, and
    - (iii) the bank administration procedure.]
- (2) The code may, in particular, provide guidance on—
- (a) how the special resolution objectives are to be understood and achieved,
  - (b) the choice between different options,
  - (c) the information to be provided in the course of a consultation under this Part,
  - (d) the giving of advice by one relevant authority to another about whether, when and how the stabilisation powers are to be used,
  - (e) how to determine whether Condition 2 in section 7 is met,
  - (f) how to determine whether [<sup>F9</sup>tests for the use of the stabilisation powers in sections 8 and 8ZA are] satisfied,
  - (g) sections 63 and 66, and
  - (h) compensation.
- (3) Sections 12[<sup>F10</sup>, 12ZA] and 13 require the inclusion in the code of certain matters about bridge banks[<sup>F11</sup>, asset management vehicles] and temporary public ownership.
- (4) The relevant authorities shall have regard to the code.
- (5) For the purpose of this section the relevant authorities are—
- (a) the Treasury,
  - [<sup>F12</sup>(b) the PRA,
  - (ba) the FCA, and]
  - (c) the Bank of England.

### Textual Amendments

- F8** S. 5(1) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), [9\(2\)](#)
- F9** Words in s. 5(2)(f) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), [9\(3\)](#)
- F10** Words in s. 5(3) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), [9\(4\)\(a\)](#)
- F11** Words in s. 5(3) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), [9\(4\)\(b\)](#)
- F12** S. 5(5)(b)(ba) substituted for s. 5(5)(b) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 17 para. 6](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

### Commencement Information

- I2** S. 5 in force at 17.2.2009 for specified purposes by [S.I. 2009/296](#), arts. 2, 3, [Sch. para. 1](#)
- I3** S. 5 in force at 21.2.2009 in so far as not already in force by [S.I. 2009/296](#), arts. 2, 3, [Sch. para. 1](#)

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## 6 Code of practice: procedure

<sup>F13</sup>(1) .....

<sup>F14</sup>(2) .....

(3) The Treasury may revise and re-issue the code of practice.

[<sup>F15</sup>(4) Before re-issuing the code of practice the Treasury must consult—

- (a) the PRA,
- (b) the FCA,
- (c) the Bank of England, and
- (d) the scheme manager of the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000).

(5) As soon as is reasonably practicable after re-issuing the code of practice the Treasury shall lay a copy before Parliament.]

### Textual Amendments

- F13** S. 6(1) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 17 para. 7\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F14** S. 6(2) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 17 para. 7\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F15** S. 6(4)(5) substituted for s. 6(4) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 17 para. 7\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

### Commencement Information

- I4** S. 6 in force at 17.2.2009 for specified purposes by [S.I. 2009/296](#), arts. 2, 3, Sch. para. 1
- I5** S. 6 in force at 21.2.2009 in so far as not already in force by [S.I. 2009/296](#), arts. 2, 3, [Sch. para. 1](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(8A)(8B) inserted by [2012 c. 21 s. 96\(3\)](#)
- s. 8(2)(d) and word inserted by [2012 c. 21 s. 96\(4\)\(b\)](#)