



Banking Act 2009

2009 CHAPTER 1

PART 1

SPECIAL RESOLUTION REGIME

Incidental functions

63 General continuity obligation: property transfers

- (1) In this section and section 64—
 - (a) “residual bank” means a bank all or part of whose business has been transferred in accordance with section 11(2)(b) or 12(2),
 - (b) “group company” means anything which is, or was immediately before the transfer, a group undertaking in relation to a residual bank,
 - (c) “group undertaking” has the meaning given by section 1161(5) of the Companies Act 2006 (interpretation),
 - (d) “the transferred business” means the part of the bank’s business that has been transferred, and
 - (e) “transferee” means a commercial purchaser or bridge bank to whom all or part of the transferred business has been transferred.
- (2) The residual bank and each group company must provide such services and facilities as are required to enable a transferee to operate the transferred business, or part of it, effectively.
- (3) The duty under subsection (2) (the “continuity obligation”) may be enforced as if created by contract between the residual bank or group company and the transferee.
- (4) The duty to provide services and facilities in pursuance of the continuity obligation is subject to a right to receive reasonable consideration.
- (5) The continuity obligation is not limited to the provision of services or facilities directly to a transferee.

Status: This is the original version (as it was originally enacted).

- (6) The Bank of England may, with the consent of the Treasury, by notice to the residual bank or a group company state that in the Bank's opinion—
- (a) specified activities are required to be undertaken in accordance with the continuity obligation;
 - (b) activities are required be undertaken in accordance with the continuity obligation on specified terms.
- (7) A notice under subsection (6) shall be determinative of the nature and extent of the continuity obligation as from the time when the notice is given.