
STATUTORY INSTRUMENTS

2014 No. 3348

The Bank Recovery and Resolution (No. 2) Order 2014

PART 8

Early intervention

CHAPTER 1

Early intervention with respect to an institution

Interpretation of Chapter 1

107. In this Chapter—

“measure for early intervention” means a [^{F1}relevant] measure which may be taken by the PRA or FCA in exercise of its powers under FSMA with the object of addressing the conditions [^{F2}for early intervention]; ^{F3}...

“relevant institution” means an institution which is authorised by the PRA or FCA and is not part of a group subject to supervision on a consolidated basis in accordance with [^{F4}the capital requirements regulation and CRR rules][^{F5}, and

[^{F6}“relevant measure” means a measure—

- (a) requiring an institution to—
 - (i) implement one or more of the arrangements or measures set out in the recovery plan; or
 - (ii) review and (if appropriate) amend a recovery plan in accordance with article 33 when the circumstances that led to early intervention are different from the assumptions set out in the initial recovery plan and implement one or more of the arrangements or measures set out in the updated plan within a specified timeframe and to ensure that the conditions referred to in the introductory phase no longer apply;
- (b) requiring the management body of an institution to examine the situation, identify measures to overcome any problems identified and draw up an action programme to overcome those problems and a timetable for its implementation;
- (c) requiring the management body of an institution to convene, or, if the management body fails to comply with the requirement, to convene directly, a meeting of shareholders of the institution, and in both cases setting the agenda and requiring certain decisions to be considered for adoption by the shareholders;
- (d) requiring any person to be removed or replaced if an approval is withdrawn from that person under section 63 of FSMA;
- (e) requiring the management body of an institution to draw up a plan for negotiation on restructuring of debt with some or all of its creditors in accordance with any recovery plan;

- (f) requiring changes to the institution's business strategy;
- (g) requiring changes to the legal or operational structures of the institution; or
- (h) acquiring (including through on-site inspections) and providing to the Bank all the information necessary to update the resolution plan and preparing for the possible resolution of the institution and for valuation of the assets and liabilities of the institution in accordance with section 6E or 48X of the Banking Act 2009;]

“temporary manager” means a temporary manager appointed by the appropriate regulator under section 71C of FSMA].

Textual Amendments

- F1** Word in art. 107 inserted (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. 3 para. 60(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in art. 107 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. 3 para. 60(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Word in art. 107 omitted (16.12.2016) by virtue of [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **41(2)(a)**
- F4** Words in art. 107 substituted (1.1.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/1376\)](#), regs. 1(3), **19(7)**
- F5** Words in art. 107 inserted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **41(2)(b)**
- F6** Words in art. 107 inserted (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. 3 para. 60(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Notice that institution meets the conditions for early intervention

108.—^[F7](1) The appropriate regulator must notify the Bank without delay if it determines that a relevant institution meets the conditions for early intervention ^[F8]or the appointment of a temporary manager].

^[F9](2) The PRA and the FCA may each make technical standards relating to the circumstances in which a relevant institution may be taken as meeting the conditions for early intervention.]

Textual Amendments

- F7** Art. 108 renumbered as art. 108(1) (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. 3 para. 61(1)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F8** Words in art. 108 inserted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **41(3)**
- F9** Art. 108(2) inserted (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. 3 para. 61(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Deadline for compliance with measure for early intervention

109. The appropriate regulator may not take a measure for early intervention in respect of a relevant institution without prescribing a date before which the action required to be taken in compliance with the measure is to be completed.

CHAPTER 2

Early intervention with respect to groups where the PRA or FCA is the consolidating supervisor

Application and interpretation of Chapter 2

110.—(1) This Chapter applies where the PRA or FCA is the consolidating supervisor in relation to a relevant group.

(2) In this Chapter—

“measure for early intervention”—

(a) ^{F10} ... has the same meaning as in Chapter 1;

(b) ^{F11} ...

^{F12} ...

[^{F13}temporary manager” means—

(a) in relation to a UK group entity, a temporary manager appointed by the appropriate regulator under section 71C of FSMA;

(b) ^{F14} ...]

“UK group entity” means—

(a) the [^{F15}UK] parent undertaking^{F16} ...;

(b) a group subsidiary which is an institution authorised by the PRA or FCA.

Textual Amendments

F10 Words in art. 110(2) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 62(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F11 Words in art. 110(2) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 62(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F12 Words in art. 110(2) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 62(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F13 Words in art. 110 inserted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **41(4)**

F14 Words in art. 110(2) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 62(4)**; 2020 c. 1, Sch. 5 para. 1(1)

F15 Word in art. 110(2) 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. 3 para. 62(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F16 Words in art. 110(2) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 62(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Procedure for early intervention in respect of a UK group entity

111.—(1) This article applies where the appropriate regulator proposes to take a measure for early intervention [^{F17}or appoint a temporary manager] in respect of a UK group entity.

(2) The appropriate regulator must without delay give notice of its proposal to the Bank^{F18}....

^{F19}(3)

(4) The appropriate regulator must give the [^{F20}Bank] notice of a decision to take a measure for early intervention [^{F21}or to appoint a temporary manager] in respect of a UK group entity.

(5) The appropriate regulator may not take a measure for early intervention without prescribing a date before which the action required to be taken in compliance with the measure is to be completed.

(6) The appropriate regulator must give the UK group entity referred to in a notice given under paragraph (4) and the [^{F22}UK] parent undertaking, if it is not the entity concerned, written notice of its decision to take a measure for early intervention [^{F23}or to appoint a temporary manager], including a reasoned account of the decision.

Textual Amendments

F17 Words in art. 111(1) inserted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **41(5)(a)**

F18 Words in art. 111(2) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 63(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F19 Art. 111(3) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 63(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F20 Word in art. 111(4) 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. 3 para. 63(4)**; 2020 c. 1, Sch. 5 para. 1(1)

F21 Words in art. 111(4) inserted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **41(5)(c)**

F22 Word in art. 111(6) 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. 3 para. 63(5)**; 2020 c. 1, Sch. 5 para. 1(1)

F23 Words in art. 111(6) inserted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **41(5)(c)**

Procedure for early intervention in respect of a non-UK group entity

^{F24}**112.**

Textual Amendments

F24 Art. 112 omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 64**; 2020 c. 1, Sch. 5 para. 1(1)

Joint decisions about early intervention

^{F25}**113.**

Textual Amendments

F25 Art. 113 omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 64**; 2020 c. 1, Sch. 5 para. 1(1)

References to EBA

^{F26}**114.**

Textual Amendments

F26 Art. 114 omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 64**; 2020 c. 1, Sch. 5 para. 1(1)

Requesting the assistance of EBA

^{F27}**115.**

Textual Amendments

F27 Art. 115 omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 64**; 2020 c. 1, Sch. 5 para. 1(1)

^{F28}**CHAPTER 3**

Early intervention with respect to groups where neither the PRA nor the FCA is the consolidating supervisor

Textual Amendments

F28 Pt. 8 Ch. 3 omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 3 para. 65**; 2020 c. 1, Sch. 5 para. 1(1)

Application and interpretation of Chapter 3

^{F28}**116.**

Procedure for early intervention in respect of a UK group entity

^{F28}**117.**

Joint decisions about early intervention

^{F28}**118.**

Changes to legislation: There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, PART 8. (See end of Document for details)

References to EBA

^{F28}**119.**

Requesting the assistance of EBA

^{F28}**120.**

Changes to legislation:

There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, PART 8.