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DRAFT STATUTORY INSTRUMENTS

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**2016 No.**

**The Bank Recovery and Resolution Order 2016**

**PART 2**

**Amendments of the Banking Act 2009 and related provision**

**CHAPTER 1**

**Amendments of the Banking Act 2009**

**Property transfer instruments: special bail-in provision**

**11.**—(1) Section 44B (property transfer instruments: special bail-in provision)(1) is amended as follows.

(2) For subsections (1) to (3) substitute—

“(1) A property transfer instrument within subsection (2) may make special bail-in provision with respect to the bank (see section 48B)(2).

(2) The instruments referred to in subsection (1) are—

- (a) a property transfer instrument under section 11(2), 12(2), 12ZA(3)(3) or 41A(2)(4),
- (b) a supplemental property transfer instrument under section 42 in relation to which the original instrument is—
  - (i) a property transfer instrument under section 11(2), 12(2), 12ZA(3) or 41A(2),
  - (ii) an onward property transfer instrument under section 43(2), or
  - (iii) a bridge bank supplemental property transfer instrument under section 44D(2),
- (c) an onward property transfer instrument under section 43(2), or
- (d) a bridge bank supplemental property transfer instrument under section 44D(2)(5).

(3) In the case of—

- (a) a property transfer instrument under section 12(2) or 12ZA(3),
- (b) a supplemental property transfer instrument under section 42 in relation to which the original instrument is—
  - (i) a property transfer instrument under section 12(2) or 12ZA(3),

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(1) Section 44B was inserted by paragraph 5 to Schedule 2 to the Financial Services (Banking Reform) Act 2013 (c.24), and amended by S.I. 2014/3329.

(2) Section 48B was inserted by paragraph 4 of Schedule 2 to the Financial Services (Banking Reform) Act 2013 and amended by S.I. 2014/3329.

(3) Section 12ZA was inserted by S.I. 2014/3329.

(4) Section 41A was inserted by paragraphs 1 and 5 of Schedule 2 to the Financial Services (Banking Reform) Act 2013.

(5) Section 44D is inserted by article 13 of this Order.

- (ii) an onward property transfer instrument under section 43(2), or
- (iii) a bridge bank supplemental property transfer instrument under section 44D(2),

(c) an onward property transfer instrument under section 43(2), or

(d) a bridge bank supplemental property transfer instrument under section 44D(2),

the power under subsection (1) to make the provision described in section 48B(1)(b) (see also rule 3(a) and (b) of section 48B(5)) includes power to make the provision referred to in subsection (3A).

(3A) The provision referred to in subsection (3) is provision replacing a liability (of any form)—

- (a) of the bank, in the case of the instruments within subsection (3)(a) and (b)(i),
- (b) of the resolution company mentioned in section 43(1), in the case of the instruments within subsections (3)(b)(ii) and (c), or
- (c) of the bridge bank mentioned in section 44D(1), in the case of the instruments within subsections (3)(b)(iii) and (d),

with a relevant security (of any form or class).

(3B) The following are relevant securities for the purpose of subsection (3A)—

- (a) in any case, a security of the bank,
- (b) where the instrument within subsection (3)(a), or the original instrument, is made under section 12, a security of the bridge bank mentioned in section 12(1),
- (c) where the instrument within subsection (3)(a), or the original instrument, is made under section 12ZA, a security of the asset management vehicle mentioned in section 12ZA(1).

(3C) In subsection (3B) references to the original instrument are—

- (a) in relation to an instrument within subsection (3)(b), the original instrument referred to in that paragraph,
- (b) in relation to an instrument within subsection (3)(c), the original instrument as defined in section 43(1),
- (c) in relation to an instrument with subsection (3)(d), the original instrument as defined in section 44D(1)."

(3) In subsection (4), after "bridge bank" insert "or asset management vehicle".