

## SUPPLEMENTARY TRANSPOSITION NOTE

*Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investments firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (“the Directive”)*

This Supplementary Transposition Note has been prepared by HM Treasury. It sets out which provisions in the Directive are being further implemented by the draft Bank Recovery and Resolution Order 2016.

### Abbreviations

BRRO 2016	the draft Bank Recovery and Resolution Order 2016
CA	competent authority (in the UK, this is the PRA or FCA, as the case may be)
HMT	Her Majesty’s Treasury
MS	Member State(s)
RA	resolution authority (in the UK, the Bank of England)

Article	Objective	Implementation	Responsible body
<b>Article 2(1)(3)</b>	Definition of “investment firm”	Article 37, BRRO 2016	HMT
<b>Article 27(1)(c)</b>	MS to ensure that, where an institution meets the conditions for early intervention, CAs are able to convene a general meeting of the shareholders of the institution where the management body fail to do so.	Article 31, BRRO 2016	HMT
<b>Article 28</b>	Removal of senior management and management body	Articles 4, 32 and 35, BRRO 2016	HMT
<b>Article 29</b>	Temporary administrators	Article 32, BRRO 2016 (and in particular new sections 71C to 71F of the Financial Services and Markets	HMT

Article	Objective	Implementation	Responsible body
		Act 2000 inserted by that article).	
<b>Article 29(10)</b>	A temporary administrator may not be deemed to be a shadow director or a de facto director	Article 41(15), BRRO 2016	HMT
<b>Article 30</b>	Coordination of early intervention measures and appointment of temporary administrator in relation to groups	Article 41(1) to (13)	HMT
<b>Article 32(4)</b>	For the purposes of this Article an institution shall be deemed to be failing or likely to fail in one or more of the circumstances set out in this paragraph	Article 7, BRRO 2016	HMT
<b>Article 37(7)(b)</b>	RA and any financing arrangement acting pursuant to article 101 may recover any reasonable expenses from the institution under resolution	Articles 14 and 17, BRRO 2016	HMT
<b>Article 38(10)</b>	Transfers made by virtue of the sale of business tool shall be subject to the safeguards referred to in Chapter VII of Title IV of the Directive	Article 36(2) to (3)	HMT
<b>Article 39(2)</b>	When applying the sale of business tool to an institution, an RA shall market, or make arrangements for the marketing of the assets, rights, liabilities, shares or other instruments of ownership of that institution that the authority intends to transfer in	Article 8, BRRO 2016	HMT

Article	Objective	Implementation	Responsible body
	accordance with the criteria set out in Article 39(2)		
<b>Article 40</b>	To give effect to the bridge institution tool	Articles 20 to 22, and 28 BRRO 2016 (applying the bridge institution tool to building societies)	HMT
<b>Article 40(5)</b>	To enable supplemental transfers in respect of the bridge institution tool	Articles 13, 16 and 27, BRRO 2016	HMT
<b>Article 40(6)</b>	To enable transfers from the bridge institution back to the institution under resolution, or in the case of shares to their original owners, and transfers from the bridge institution to a third party	Articles 9, 10, 16 and 27, BRRO 2016	HMT
<b>Article 42</b>	Asset separation tool	Article 26 (consequential amendments)	HMT
<b>Article 43(2),(3)</b>	To set out the circumstances in which resolution authorities are to be able to make bail-in provision	Articles 11 and 12, BRRO 2016	HMT
<b>Article 47(5)</b>	If the competent authority for an institution subject to bail-in has not completed its assessment of the resulting acquisition or increase in a qualified holding, Article 38(9) of the Directive is to apply	Article 33, BRRO, 2016	HMT
<b>Article 59(3)</b>	MS to require that RAs exercise the write down or conversion power in	Articles 6 and 18, BRRO 2016	HMT

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsible body</b>
	accordance with Article 60 and without delay when one or more of the circumstances set out in this paragraph apply		
<b>Article 68</b>	Exclusion of certain contractual terms in early intervention and resolution	Article 15, BRRO 2016	HMT
<b>Article 72(4)</b>	RAs shall not be deemed to be shadow directors or de facto directors under national law	Article 41(15), BRRO 2016	HMT
<b>Articles 73</b>	MS to ensure that where one or more of the resolution tools have been applied, and in particular for the purposes of Article 75, relevant shareholders and creditors are not worse off than they would have been under normal insolvency proceedings	Articles 38, 39 and 40 BRRO 2016 (applying BRRD provisions to third country institutions)	HMT
<b>Article 74, 75</b>	Valuation of difference in treatment and safeguard for shareholders and creditors	Article 40, BRRO 2016 (applying BRRD provisions to third country institutions)	HMT
<b>Article 76</b>	MS to ensure that certain safeguards and other protections for counterparties in partial transfers apply	Article 36(2) to (3)	HMT
<b>Article 78(2)</b>	MS to ensure that there is appropriate protection for certain liabilities secured under a security arrangement	Article 36(4), BRRO 2016	HMT
<b>Article 84(1)(d)</b>	MS to ensure that no confidential information is disclosed by special managers or temporary administrators	Article 34, BRRO 2016	HMT

<b>Article</b>	<b>Objective</b>	<b>Implementation</b>	<b>Responsible body</b>
<b>Article 84(1)(f)</b>	MS to ensure that no confidential information is disclosed by auditors, accountants, legal professional advisors, valuers and other experts directly or indirectly engaged by resolution authorities	Article 25, BRRO 2016	HMT
<b>Article 96</b>	MS to ensure that RAs have the powers necessary to act in relation to a Union branch that is not subject to any third country resolution proceedings or that is subject to third country proceedings and once of the conditions in Article 95 applies	Article 29, BRRO 2016	HMT
<b>Article 121(2)</b>	Amendment to Directive 2007/36/EC: powers of general meeting to increase capital	Article 41(16), BRRO 2016	HMT