



Banking Act 2009

2009 CHAPTER 1

PART 1

SPECIAL RESOLUTION REGIME

[^{F1}CHAPTER 3

SPECIAL RESOLUTION ACTION]

[^{F1}Bail-in option

[^{F1}48P Orders for safeguarding certain financial arrangements

(1) In this section “protected arrangements” means security interests, title transfer collateral arrangements, set-off arrangements and netting arrangements.

(2) In subsection (1)—

“netting arrangements” means arrangements under which a number of claims or obligations can be converted into a net claim or obligation, and includes, in particular, “close-out” netting arrangements, under which actual or theoretical debts are calculated during the course of a contract for the purpose of enabling them to be set off against each other or to be converted into a net debt;

“security interests” means arrangements under which one person acquires, by way of security, an actual or contingent interest in the property of another;

“set-off arrangements” means arrangements under which two or more debts, claims or obligations can be set off against each other;

“title transfer collateral arrangements” means arrangements under which Person 1 transfers assets to Person 2 on terms providing for Person 2 to transfer assets if specified obligations are discharged.

(3) The Treasury may by order—

Changes to legislation: *Banking Act 2009, Section 48P is up to date with all changes known to be in force on or before 15 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) restrict the exercise of any power within the scope of this paragraph in cases that involve, or where the exercise of the power might affect, protected arrangements;
 - (b) impose conditions on the exercise of any power within the scope of this paragraph in cases that involve, or where the exercise of the power might affect, protected arrangements;
 - (c) require any instrument that makes special bail-in provision to include specified provision, or provision to a specified effect, in respect of or for purposes connected with protected arrangements;
 - (d) provide for an instrument to be void or voidable, or for other consequences to arise, if or in so far as the instrument is made or purported to be made in contravention of a provision of the order (or of another order under this section);
 - (e) specify principles to which the Bank of England is to be required to have regard in exercising specified powers—
 - (i) that involve protected arrangements, or
 - (ii) where the exercise of the powers might affect protected arrangements.
- (4) References to exercising a power within the scope of paragraph (a) or (b) of subsection (3) are to making an instrument containing provision made in reliance on section 12A(3)(a) or 44B (special bail-in provision).
- (5) An order may apply to protected arrangements generally or only to arrangements—
- (a) of a specified kind, or
 - (b) made or applying in specified circumstances.
- (6) An order may include provision for determining which arrangements are to be, or not to be, treated as protected arrangements; in particular, an order may provide for arrangements to be classified not according to their description by the parties but according to one or more indications of how they are treated, or are intended to be treated, in commercial practice.
- (7) In this section “arrangements” includes arrangements which—
- (a) are formed wholly or partly by one or more contracts or trusts;
 - (b) arise under or are wholly or partly governed by the law of a country or territory outside the United Kingdom;
 - (c) wholly or partly arise automatically as a matter of law;
 - (d) involve any number of parties;
 - (e) operate partly by reference to other arrangements between parties.
- (8) An order—
- (a) is to be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.]

Textual Amendments

F1 Ss. 48B-48W and cross-heading inserted (1.3.2014 for the insertion of s. 48P for specified purposes, 31.12.2014 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 2 para. 4](#); S.I. 2014/377, art. 2(1)(b), Sch. Pt. 2; S.I. 2014/3160, art. 2(1)(b)

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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\(4\)\(b\)](#)