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**Changes to legislation:** There are currently no known outstanding effects for the Financial Services (Banking Reform) Act 2013, Cross Heading: New stabilisation option: bail-in. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 2 **U.K.**

#### BAIL-IN STABILISATION OPTION

#### **PART 1** **U.K.**

#### AMENDMENTS OF BANKING ACT 2009

##### *New stabilisation option: bail-in*

2 After section 12 insert—

#### **“12A Bail-in option**

- (1) The third stabilisation option is exercised by the use of the power in subsection (2).
- (2) The Bank of England may make one or more resolution instruments (which may contain provision or proposals of any kind mentioned in subsections (3) to (6)).
- (3) A resolution instrument may—
  - (a) make special bail-in provision with respect to a specified bank;
  - (b) make other provision for the purposes of, or in connection with, any special bail-in provision made by that or another instrument.
- (4) A resolution instrument may—
  - (a) provide for securities issued by a specified bank to be transferred to a bail-in administrator (see section 12B) or another person;
  - (b) make other provision for the purposes of, or in connection with, the transfer of securities issued by a specified bank (whether or not the transfer has been or is to be effected by that instrument, by another resolution instrument or otherwise).
- (5) A resolution instrument may set out proposals with regard to the future ownership of a specified bank or of the business of a specified bank, and any other proposals (for example, proposals about making special bail-in provision) that the Bank of England may think appropriate.
- (6) A resolution instrument may make any other provision the Bank of England may think it appropriate to make in exercise of specific powers under this Part.
- (7) Provision made in accordance with subsection (4) may relate to—
  - (a) specified securities, or
  - (b) securities of a specified description.

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- (8) Where the Bank of England has exercised the power in subsection (4) to transfer securities to a bail-in administrator, the Bank of England must exercise its functions under this Part (see, in particular, section 48V) with a view to ensuring that any securities held by a person in the capacity of a bail-in administrator are so held only for so long as is, in the Bank of England's opinion, appropriate having regard to the special resolution objectives.
- (9) References in this Part to “special bail-in provision” are to provision made in reliance on section 48B.

### **12B Bail-in administrators**

- (1) The Bank of England may, in a resolution instrument, appoint an individual or body corporate as a bail-in administrator.
- (2) A bail-in administrator is appointed—
  - (a) to hold any securities that may be transferred or issued to that person in the capacity of bail-in administrator;
  - (b) to perform any other functions that may be conferred under any provision of this Part.
- (3) The Bank of England may appoint more than one bail-in administrator to perform functions in relation to a bank (but no more than one of them may at any one time be authorised to hold securities as mentioned in subsection (2) (a)).
- (4) Securities held by a bail-in administrator (in that capacity, and whether as a result of a resolution instrument or otherwise) are to be held in accordance with the terms of a resolution instrument that transfers those, or other, securities to the bail-in administrator.
- (5) For example, the following provision may be made by virtue of subsection (4)—
  - (a) provision that specified rights of a bail-in administrator with respect to all or any of the securities are to be exercisable only as directed by the Bank of England;
  - (b) provision specifying rights or obligations that the bail-in administrator is, or is not, to have in relation to some or all of the securities.
- (6) A bail-in administrator must have regard, in performing any functions of the office, to any objectives that may be specified in a resolution instrument.
- (7) Where one or more objectives are specified in accordance with subsection (6), the objectives are to be taken to have equal status with each other, unless the contrary is stated in the resolution instrument.
- (8) See sections 48I to 48K for further provision about bail-in administrators.”

#### **Commencement Information**

**II** Sch. 2 para. 2 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

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**“8A Specific condition: bail-in**

- (1) The Bank of England may exercise a stabilisation power in respect of a bank in accordance with section 12A(2) only if satisfied that the condition in subsection (2) is met.
- (2) The condition is that the exercise of the power is necessary, having regard to the public interest in—
  - (a) the stability of the financial systems of the United Kingdom,
  - (b) the maintenance of public confidence in the stability of those systems,
  - (c) the protection of depositors, or
  - (d) the protection of any client assets that may be affected.
- (3) Before determining whether that condition is met, and if so how to react, the Bank of England must consult—
  - (a) the PRA,
  - (b) the FCA, and
  - (c) the Treasury.
- (4) The condition in this section is in addition to the conditions in section 7.”

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**Commencement Information**

**I2** Sch. 2 para. 3 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

**Changes to legislation:**

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