

TRANSPPOSITION 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

This draft Transposition Note has been prepared by HM Treasury. The table below sets out the main elements of the UK's implementation of the Directive.

The Directive establishes a European framework for the recovery and resolution of banks and large investment firms and in large part reflects the Financial Stability Board's international standard for effective resolution regimes.

The Directive sets out the roles and responsibilities for banks and large investment firms, supervisors and resolution authorities prior to resolution (recovery and resolution planning), as a firm begins to weaken (early intervention tools) and in resolution (resolution tools). It also sets out a framework for cooperation between Member States so that they may plan for and manage the failure of banks and large investment firms that operate across borders within the EU. The Directive also provides for cooperation with resolution authorities outside the EU.

The Directive equips resolution authorities with resolution tools and powers so that they may take steps to preserve critical functions of a bank or investment firm in resolution and impose losses on the existing holders of its liabilities. It also sets out the steps that must be taken post-resolution – including the restructuring of banks and investment firms and providing compensation to creditors where they have been treated worse in resolution than they would have been had the bank or investment firm been put into insolvency.

Some provisions of the Directive are already given effect in the UK by:

- existing primary and secondary legislation;
- rules made by the Prudential Regulation Authority under sections 137G, 137T and 192J of FSMA;
- rules made by the Financial Conduct Authority under sections 137A, 137T, 139A and 192J of FSMA; and
- the Special Resolution Regime Code of Practice issued in accordance with sections 5 and 6 of the Banking Act 2009.

However, changes are needed to give full effect to the Directive. The Directive is being implemented through 6 statutory instruments; changes to the PRA and FCA Rules; and amendments to the Special Resolution Regime Code of Practice which HM Treasury plans to publish in December 2014.

The 6 statutory instruments covered in this transposition note are as follows:

- The Bank Recovery and Resolution Order 2014
- The Bank Recovery and Resolution (No. 2) Order 2014
- The Bank and Building Societies (Depositor Preference and Priorities) Order 2014

- The Banking Act 2009 (Mandatory Compensation Arrangements Following Bail-in) Regulations 2014
- The Banking Act 2009 (Restriction of Special Bail-in Provision etc.) Order 2014
- The Building Societies (Bail-in) Order 2014

Generally, the approach taken in these instruments has not been to copy-out the relevant provisions of the Directive. Copying out articles from the Directive would have made it unclear as to the precise scope of provisions and the precise roles and responsibilities of those to whom the Directive needs to apply.

These instruments do what is necessary to implement the main provisions of the Directive, including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply. They leave in place existing domestic legislation that goes beyond what the EU requires in this minimum harmonising directive. The UK had already legislated (starting in 2008, with the recent financial crisis) to protect financial stability

Glossary of terms used and abbreviations

European legislation

Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories

Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority) (“**the EBA Regulation**”)

Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU

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 (“**the Directive**”)

Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC

Directive 2012/30/EU of the European Parliament and of the Council of 25 October 2012 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent

Directive 2011/35/EU of the European Parliament and of the Council of 5 April 2011 concerning mergers of public limited liability companies

Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies

Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies

Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids

Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements

Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions

Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54 (3) (g) of the Treaty, concerning the division of public limited liability companies

Primary legislation

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| BA09 | Banking Act 2009 |
| FA11 | Finance Act 2011 |
| FSA12 | Financial Services Act 2012 |
| FSMA | Financial Services and Markets Act 2000 |

Secondary legislation, rules and guidance

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| SI No. 1 | The Bank Recovery and Resolution Order 2014 |
| SI No. 2 | The Bank Recovery and Resolution (No 2) Order 2014 |
| SI No. 3 | The Bank and Building Societies (Depositor Preference and Priorities) Order 2014 |
| SI No. 4 | The Banking Act 2009 (Mandatory Compensation Arrangements Following Bail-in) Regulations 2014 |
| SI No. 5 | The Banking Act 2009 (Restriction of Special Bail-in Provision etc.) Order 2014 |
| SI No. 6 | The Building Societies (Bail-in) Order 2014 |
| SI 1999/2979 | The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (as amended) |
| SI 2001/2188 | The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (as amended) |
| SI 2004/1045 | The Credit Institutions (Reorganisation and Winding up) Regulations 2004 |
| SI 2009/319 | The Banking Act (Third Party Compensation Arrangement for Partial Property Transfers) Regulations 2009 (as amended) |
| SI 2009/322 | The Banking Act 2009 (Restrictions of Partial Property Transfers) Order 2009 (as amended) |
| SI 2010/2220 | The Financial Services and Markets Act 2000 (Contributions to Costs of Special Resolution regime) Regulations 2010 (as amended) |
| SI 2014/1831 | The Banking Act 2009 (Banking Group Companies) Order 2014 |

Statutory rules and guidance

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| FCA Rules | rules and guidance made by FCA under sections 137A, 137T, 139A, 192J and 192JB of FSMA |
| PRA Rules | rules made by the PRA under sections 137G, 137T, 192J and 192JB of FSMA |
| SRR Code | Special Resolution Regime Code of Practice issued in accordance with sections 5 and 6 of the Banking Act 2009 |

Other terms used

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| CA | competent authority (in the UK, this is the PRA or FCA, as the case may be) |
| CS | consolidating supervisor (this will be the relevant competent authority in the UK or the EU) |
| EBA | European Banking Authority |
| EU | European Union |
| FCA | Financial Conduct Authority |
| HMT | Her Majesty's Treasury |
| MS | Member State(s) |
| PRA | Prudential Regulation Authority |
| RA | resolution authority (in the UK, the Bank of England) |

| Article | Objective | Implementation | Responsible body |
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| Title I – Scope, definitions and authorities | | | |
| Article 1 | Sets out the scope of the Directive | No implementation is required | n/a |
| Article 2 | Sets out the definitions used in the Directive | No implementation is required | n/a |
| Article 3(1) to (3), (8) and (10) | Each MS to designate one or, exceptionally, more RAs that are empowered to apply the resolution tools and exercise the resolution powers | Articles 4 and 5 of SI No. 2 | HMT |
| Article 3(4) | MS to require that authorities exercising supervision and resolution functions must cooperate closely in the preparation, planning and application of resolution decisions | Existing provision in section 3Q of FSMA; and article 223 of SI No. 2 | HMT |
| Article 3(5) | Each MS to designate a single ministry which is responsible for exercising the functions of the competent ministry under this Directive | Article 6 of SI No. 2 | HMT |

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| Article 3(6) | Duty of RA to inform CA of decisions pursuant to this Directive | Existing provisions in BA09 - section 8 (as amended by article 14 of SI No. 1), section 25(1), section 48T(1) and section 247 | HMT |
| Article 3(7) | Requirement that decisions taken in accordance with this Directive must take into account the potential impact in all MS where the relevant bank, investment firm or group operates and minimise the negative effects on financial stability and negative economic and social effects in those MS | New sections 7A, 89H(6) of BA09 (inserted by article 102 of SI No. 1); and Article 187 of SI No. 2 | HMT |
| Article 3(11) | Duty of MS to inform EBA about the designated authorities and their functions | By administrative means | HMT |
| Article 3(12) | MS may limit the liability of the RA, the CA and their respective staff in accordance with national law for acts and omissions in the course of discharging their functions under this Directive | Existing provisions in: section 244 of BA09 (as amended by article 108 of SI No. 1); paragraph 25 of Schedule 1ZA to FSMA; and paragraph 33 of Schedule 1ZB to FSMA | HMT |
| Title II - Preparation | | | |
| Chapter I – Recovery and resolution planning | | | |
| Section 1 – General provisions | | | |
| Article 4 | MS to ensure that CAs and RAs provide simplified obligations for certain institutions | Articles 7 and 8 of SI No. 2 ; and PRA and FCA Rules | HMT, PRA and FCA |
| Section 2 – Recovery planning | | | |
| Article 5(1) | MS to ensure that relevant institutions must draw up and maintain recovery plans | Article 7(1) of SI No. 2 and PRA and FCA Rules | HMT, PRA and FCA |

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| Article 5(2) | CAs to ensure that recovery plans must be drawn up at least annually | Article 7(4) of SI No. 2 | HMT |
| Article 5(3) to (6) | Required content of recovery plans | Articles 7(3)(a) and 13 of SI No. 2 and PRA and FCA Rules | HMT, PRA and FCA |
| Article 5(8) | MS may provide that CAs have the power to require an institution to maintain records of financial contracts | Sections 55L, 55M, 137A, 137G FSMA | PRA and FCA |
| Article 5(9) | Requirement for management body of institution to approve plan before submission to CA | PRA and FCA Rules | PRA and FCA |
| Article 6(1) | MS to require institutions to draw up recovery plans and submit those plans to the CA for assessment | Article 11 of SI No. 2 | HMT |
| Article 6(2) and (3) | Requirement for CA to assess recovery plans in accordance with the requirements of Article 5 | Articles 12(1) and (2) and 13 of SI No. 2 | HMT |
| Article 6(4) | Requirement for CA to submit recovery plan to RA | Article 12(3)(a) of SI No. 2 | HMT |
| Article 6(5) | Requirement for CA to notify institution of material deficiencies in plan and to require submission of a revised recovery plan | Article 14 of SI No. 2 ; sections 55L, 55M FSMA | HMT, PRA and FCA |
| Article 6(6) | CA to require institution to identify changes to business to address deficiencies or impediments in relation to recovery plan | Article 15 of SI No. 2 sections 55L, 55M FSMA | HMT, PRA and FCA |
| Article 6(7) | Procedural requirements in relation to decisions of the CA made in accordance with paragraph 6 | UK public law principles and existing provision in section 55Z3 of FSMA | HMT |
| Article 7(1) | MS to ensure parent undertakings draw up and submit to the CS a group recovery plan | PRA and FCA Rules to be made under existing provision in section 192JB(1)(a), (1A) and (3)(c) of FSMA (as amended by article 120 of SI No. 1); article 7(2), (3) and (4) of SI No. 2 | HMT, PRA and FCA |
| Article 7(2) | Discretion for CA to require subsidiaries to draw up and submit recovery plans on an individual basis | Article 24 of SI No. 2 | HMT |

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| Article 7(3) | Requirement for CS to transmit group recovery plan to specified authorities | Article 17 of SI No. 2 | HMT |
| Article 7(4) | Required aim of group recovery plan must be to achieve stabilisation of the group as a whole | Articles 19 and 28 of SI No. 2 ; FCA rules | HMT, FCA |
| Article 7(5) and (6) | Required content of group recovery plan | Articles 7(3)(a), 19(2) and (3) and 28(2) of SI No. 2 and PRA and FCA Rules | HMT, PRA and FCA |
| Article 7(7) | Requirement for management body of group entity to assess and approve recovery plan before submitting it to CS | PRA and FCA Rules | PRA and FCA |
| Article 8(1) | Requirement for CS to assess group recovery plans in accordance with requirements of Articles 5 and 7 | Existing provision in section 3M of FSMA (as amended by article 113 of SI No. 1); and articles 18, 19, 20, 22, 23, 28 and 29(1) and (2) of SI No. 2 | HMT |
| Article 8(2) | CS and CA of any subsidiary must endeavour to reach a joint decision. Discretion for CA to refer matter to EBA | Articles 21(1) and (2), 26, 29(3) and 32 of SI No. 2 | HMT |
| Article 8(3) | Required procedure in absence of a joint decision within specified time period where the CS must take its own decision | Articles 21(3) and (5), 25 and 31 of SI No. 2 | HMT |
| Article 8(4) and (5) | Required procedure in absence of a joint decision within specified time period where the CA must take its own decision; and discretion for CAs which do not disagree to reach a joint decision | Articles 21(3), 25, 29(5) and (6), and 31 of SI No. 2 | HMT |
| Article 8(6) | Requirement for CA to apply decisions made under this Article | Articles 21(4) and 29(4) of SI No. 2 | HMT |
| Article 9 | Requirement for recovery plan indicators | PRA and FCA Rules to be made under existing provision in section 137A, 137G, 192JB(1)(a), (1A) and (3)(c) of FSMA (as amended by article 120 of SI No. 1); articles 7(4), 13(1), 19(2), | HMT, PRA and FCA |

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| | | 28(2)(a) and 33 to 35 of SI No. 2 | |
| Section 3 – Resolution planning | | | |
| Article 10(1) | Requirement for RA to draw up resolution plans for institutions | Article 37(1), (3) and (4) of SI No. 2 | HMT |
| Article 10(2) | Requirement for RA to identify any material impediments to resolvability and outline relevant actions for addressing those impediments | Article 37(2) of, and paragraph 1 of Schedule 1 to, SI No. 2 | HMT |
| Article 10(3) | Requirement for resolution plan to include a range of different scenarios but not to assume any extraordinary public financial support | Article 37(2) of, and paragraph 2 of Schedule 1 to, SI No. 2 | HMT |
| Article 10(4) | Requirement for resolution plan to include an analysis of how and when an institution may apply for use of central bank facilities and identify assets expected to qualify as collateral | Article 37(2) of, and paragraph 3 of Schedule 1 to, SI No. 2 | HMT |
| Article 10(5) | Discretionary power for RA to require institution to assist in drawing up resolution plan | New provisions inserted into BA09: section 3A (inserted by article 6 of SI No. 1), section 83ZA(2) (inserted by article 97 of SI No. 1) | HMT |
| Article 10(6) | Requirement for resolution plans to be reviewed and updated at least annually or after any change to the institution. | Article 53 of SI No. 2 ; FCA, PRA rules | HMT, FCA, PRA |
| Article 10(7) | Required content of resolution plan | Article 37(2) of, and paragraph 4 of Schedule 1 to, SI No. 2 | HMT |
| Article 10(8) | Power for RA to require certain specified institutions to maintain records of financial contracts to which it is a party | New section 3A(3)(e) of BA09 (inserted by article 6 of SI No. 1); and article 58 of SI No. 2 | HMT |
| Article 11(1) | MS to ensure that RAs have the power to require information from and cooperation of institutions | New section 83ZB of BA09 (inserted into by article 97 of SI No. 1) | HMT |

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| Article 11(2) | Requirement for CAs to cooperate with RAs in relation to information required under Article 11(1) | Article 56 of SI No. 2 | HMT |
| Article 12(1) | MS to ensure that group-level RAs draw up group resolution plans | Article 40(1), (6) and (7) of SI No. 2 | HMT |
| Article 12(2) | Requirement that RA must draw up group resolution plan on basis of information pursuant to Article 11 | Articles 8(3)(a), 37(3) and 40(4) of SI No. 2 | HMT |
| Article 12(3) | Required content of group resolution plan | Article 40(3) of, and Schedule 2 to, SI No. 2 | HMT |
| Article 12(4) | Requirement that assessment of resolvability must be made at same time as drawing up or updating group resolution plans | Article 40(3) of, and paragraph 3(f) of Schedule 2 to, SI No. 2 | HMT |
| Article 12(5) | Requirement that group resolution plan must not have disproportionate impact on any MS | Article 40(6) of SI No. 2 | HMT |
| Article 13(1) | Requirement and procedure for parent undertakings of institutions to provide information to RA in relation to group recovery plans. Requirement for group-level RA to transmit information to specified persons | Articles 11(1)(b) and 41 of SI No. 2 | HMT |
| Article 13(2) | MS to ensure that group level resolution authorities, after consultation with relevant CA, draw up and maintain group resolution plans | Articles 40(2) and 47(1) of SI No. 2 | HMT |
| Article 13(3) | MS to ensure plans to be reviewed and updated at least annually or after any change to the group | Articles 54 and 55 of SI No. 2 | HMT |
| Article 13(4) | RAs to reach joint decision within four months | Articles 42(1), 44, 47(2) and 52 of SI No. 2 | HMT |
| Article 13(5) | In absence of a joint decision within 4 months group level RA to take its own decision. If matter referred to the EBA, decision shall be taken in conformity with the EBA decision | Articles 42(2) and (4) and 43 of SI No. 2 | HMT |

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| Article 13(6) | In absence of a joint decision within 4 months each RA to take its own decision and draw up and maintain a resolution plan for the entities under its jurisdiction. If matter referred to the EBA, decision shall be taken in conformity with the EBA decision | Articles 42(3), 48 and 51 of SI No. 2 | HMT |
| Article 13(7) | Other RAs which do not disagree under paragraph 6 may reach a joint decision | Article 49 of SI No. 2 | HMT |
| Article 13(10) | Group level RA may initiate a reassessment of group resolution plan | Article 42(3) of SI No. 2 | HMT |
| Article 14 | Requirement for RA to transmit resolution plan to relevant CAs | Articles 38 and 45 of SI No. 2 | HMT |
| Chapter II - Resolvability | | | |
| Article 15(1) | MS to ensure that the RA assesses the extent to which an institution that is not part of a group is resolvable without making any assumptions in relation to matter set out in this paragraph. RAs to notify the EBA whenever institution is deemed not to be resolvable | Article 60(1), (2) and (4) of SI No. 2 | HMT |
| Article 15(2) | The RA to examine certain matters for the purpose of assessing resolvability | Article 60(2)(a) of SI No. 2 | HMT |
| Article 15(3) | Timing for making resolvability assessment | Article 60(1) of SI No. 2 | HMT |
| Article 16(1) | MS to ensure RAs assess resolvability for a group without assumption of certain items and notify EBA whenever a group is deemed not to be resolvable | Articles 60(4), 62(1), (2), (3), (5), (6) and (7) and 63(1) and (2) of SI No. 2 | HMT |
| Article 16(2) | Examining matters in section C of annex for the purpose of assessing resolvability of group | Article 62(3)(a) of SI No. 2 | HMT |
| Article 16(3) | Timing for making resolvability assessment of group | Articles 61(1), 62(7) and 63(3) of SI No. 2 | HMT |
| Article 17(1) | MS to ensure RA notifies institution of determination | Articles 64(1) and 65 of SI No. 2 | HMT |

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| | that there are substantive impediments to resolvability | | |
| Article 17(2) | Suspension of RA's obligation to draw up resolution plans and to reach joint agreement with other RAs on group resolution plans following Art 14(1) notification | Articles 66(1), 70 and 77 of SI No. 2 | HMT |
| Article 17(3) | Requirement for institutions to propose to RA possible measures to address or remove substantive impediments identified in Art 14(1) notification. RA must assess institution's proposed measures in consultation with CA | Articles 64(1) and 66(2) and (3)(a) of SI No. 2 | HMT |
| Article 17(4) | Required procedure where RA assesses proposed measures to address or remove impediments to be ineffective, requiring institution to take alternative measures to achieve objective | New section 3A of BA09 (inserted by article 6 of SI No. 1); and article 66(3)(b), (4)(a),(b) and (c)(i) of SI No. 2 | HMT |
| Article 17(5) | RA must have power to take certain measures for the purposes of requiring institution to take alternative measures to address or remove impediments | New sections 3A and 3B of BA09 (inserted by article 6 of SI No. 1) | HMT |
| Article 17(6) | A decision made under Article 14(1) or (3) must meet certain requirements | New section 3B of BA09 (inserted by article 6 of SI No. 1); and articles 66(5) and 67 of SI No. 2 | HMT |
| Article 17(7) | RA to consider the potential effect of alternative measures under Article 14(3) on particular institution, on the internal market for financial services, and on the financial stability in other Member States and Union as a whole | Article 66(6)(b) of SI No. 2 | HMT |
| Article 18(1) | Group RA to consider assessment required by Article 16 within resolution college and take all reasonable steps to reach joint decision | Articles 68(1), 69(1), and 77(1) and (2) of SI No. 2 | HMT |
| Article 18(2) | Group RA to prepare and submit a report to EU parent | Article 69 of SI No. 2 | HMT |

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| | undertaking and to RAs of subsidiaries. RAs of subsidiaries to provide report to subsidiaries under their supervision | | |
| Article 18(3) | EU parent undertaking may submit observations and propose to group RA alternative measures | Article 71(1) of SI No. 2 | HMT |
| Article 18(4) | Group RA to communicate any measure proposed by EU parent undertaking to specified persons. Group RAs and other relevant RAs to do everything within their power to reach joint decision | Articles 71(2), (3), (4) and (5), 72(1), 77(2) and (3) and 78 of SI No. 2 | HMT |
| Article 18(5) | Joint decision to be reached within 4 months from submission of report and to be reasoned and set out in document provided by group RA to EU parent undertaking | Articles 72(1), 74, 78 and 82 of SI No. 2 | HMT |
| Article 18(6) | Group RA to make own decision in absence of joint decision for appropriate measures to be taken at group level and for making of decision to conform with certain requirements | Articles 72(2) and (3), 73 and 82 of SI No. 2 | HMT |
| Article 18(7) | In absence of joint decision, RAs of subsidiaries to make their own decisions on appropriate measures to be taken by subsidiaries at individual level and for making of decision to be conform with certain requirements | Articles 72(2), 73 and 79 to 81 of SI No. 2 | HMT |
| Article 18(8) | Joint decision in Art 18(5) and RAs' decisions in Art 18(6) to be recognised as conclusive and applied by other RAs concerned | Articles 77 SI No. 2 | HMT |
| Article 18(9) | RA may request EBA (in accordance with Article 19(3) of the EBA Regulation) to assist the RAs to reach a joint decision | Article 74 of SI No. 2 | HMT |
| Chapter III – Intra group | | | |

| financial support | | | |
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| Article 19(1) to (4) | MS to ensure that relevant parent institutions may enter into a group financial support agreement | PRA and FCA Rules to be made under existing provision in section 137A, 137G, 192JB(1)(b) and (3)(d) of FSMA (as amended by article 120 of SI No. 1); articles 84 and 92 of SI No. 2 | HMT, PRA and FCA |
| Article 19(5) and (6) | Permitted provisions in the group financial support agreement | Articles 84 and 92 of SI No. 2 | HMT |
| Article 19(7) | Requirement that the group financial support agreement must specify the principles for the calculation of the consideration, for any transaction made under it | PRA and FCA rules to be made under existing provision in section 192JB(1)(b) and (3)(d) of FSMA (as amended by article 120 of SI No. 1) | PRA; FCA |
| Article 19(8) | The group financial support agreement may only be concluded if, at the time the proposed agreement is made, in the opinion of their respective CAs, none of the parties meets the conditions for early intervention | Articles 84(2)(b) and (4)(b) and 92(2)(b) of SI No. 2 ; PRA and FCA rules | HMT; PRA; FCA |
| Article 19(9) | MS to ensure that any right, claim or action arising from the group financial support agreement may be exercised only by the parties to the agreement, with the exclusion of third parties | PRA and FCA rules to be made under existing provision in section 192JB(1)(b) and (3)(d) of FSMA (as amended by article 120 of SI No. 1) | PRA, FCA |
| Article 20(1) | Union parent institution to submit group financial support agreement to the CS for authorisation | PRA and FCA Rules to be made under existing provision in section 192JB(1)(b) and (3)(d) of FSMA (as amended by article 120 of SI No. 1) | PRA and FCA |
| Article 20(2) | CS must forward to CA for each subsidiary with a view of reaching joint decision | Articles 85(1), 86 and 93 of SI No. 2 | HMT |
| Article 20(3) | CS must authorise agreement if conditions in Article 19 are met | Articles 85(5) of SI No. 2 | HMT |

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| Article 20(4) | CS may prohibit conclusion of agreement | Article 85(4) of SI No. 2 | HMT |
| Article 20(5) | CA must reach joint decision on whether the agreement is consistent with conditions for financial support in article 19 within four months | Articles 86(1) and (3), 93 and 94 of SI No. 2 | HMT |
| Article 20(6) | CS must make its own decision in absence of a joint decision and notify the other CAs | Article 86(2) and (3) of SI No. 2 | HMT |
| Article 20(7) | If during the four months any CA referred the matter to the EBA, the consolidating supervisor shall defer its decision and take its decision in conformity with the EBA decision. A matter shall not be referred to the EBA after the four months or after a joint decision has been taken | Articles 87 and 93 of SI No. 2 | HMT |
| Article 21 | MS to require approval of proposed agreement by shareholders | Chapter 3 of Part 7 of SI No. 2 | HMT |
| Article 22 | CAs to transmit authorised group financial support agreements to relevant RAs | Article 89 of SI No. 2 | HMT |
| Article 23 | Required conditions for group financial support | PRA and FCA Rules to be made under existing provision in section 192JB(1)(b) and (3)(d) of FSMA (as amended by article 120 of SI No. 1); and articles 84(2)(a) and (3), 92(2)(a) and (3) of SI No. 2 | HMT, PRA and FCA |
| Article 24 | Decision to provide group financial support in accordance with the agreement must be taken by the management body of the group entity providing financial support | PRA and FCA Rules to be made under existing provision in section 192JB(1)(b) and (3)(d) of FSMA (as amended by article 120 of SI No. 1) | HMT, PRA and FCA |
| Article 25(1) | Management body of a group entity must inform CA and EBA before providing support | PRA and FCA Rules to be made under existing provision in section 192JB(1)(b) and (3)(d) of FSMA (as amended by article 120 of SI No. 1) | HMT, PRA and FCA |

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| Article 25(2) | CA may prohibit or restrict support within specified time period if conditions in Article 19 have not been met | Article 102 of SI No. 2 | HMT |
| Article 25(3) | CA to inform EBA, CA and consolidating supervisor of its decision to restrict or prohibit support | Articles 102 and 103(2) of SI No. 2 | HMT |
| Article 25(4) | CS or CA may refer matter to the EBA for non-binding mediation | Article 105 of SI No. 2 | HMT |
| Article 25(5) | Financial support may be provided if CA does not oppose | PRA and FCA rules and guidance | PRA and FCA |
| Article 25(6) | Notification about the decision to provide financial support must be transmitted to specified persons | Article 102(2) of SI No. 2 ; and PRA and FCA Rules | HMT, PRA and FCA |
| Article 25(7) | CA may request CS to initiate a reassessment of the group recovery plan | Article 104 of SI No. 2 | HMT |
| Article 26 | MS to ensure group entities make public whether or not they have entered into a group financial support agreement pursuant to Article 19 | PRA and FCA Rules to be made under existing provision in section 192JB(1)(b) and (3)(d) of FSMA (as amended by article 120 of SI No. 1) | HMT PRA and FCA |
| Tile III – Early intervention | | | |
| Article 27(1) | MS to ensure that, where an institution meets the conditions for early intervention, CAs have at their disposal the early intervention measures set out in this paragraph | Requirements to be imposed by PRA and FCA under existing provisions in sections 55L and 55M of FSMA; and by exercise of powers of PRA and FCA under existing provision in section 63 of FSMA | PRA and FCA |
| Article 27(2) | MS to ensure that CAs must notify the RAs without delay on determining that a relevant institution meets the conditions for early intervention | Articles 111(2) and 117(2) of SI No. 2 | HMT |
| Article 27(3) | CAs must set appropriate deadlines for compliance with a measure for early intervention | Articles 111(5) and 117(5) of SI No. 2 | HMT |

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| Article 28 | MS to ensure that, where there is a significant deterioration in the financial situation of an institution and measures taken under Article 27 are not sufficient to reverse the deterioration, the CAs may require the removal of senior management or the management body | Requirements to be imposed by PRA and FCA under existing provisions in sections 55L and 55M of FSMA | PRA and FCA |
| Article 29 | MS to ensure that CAs may appoint one or more temporary administrators to the institution | Requirements to be imposed by PRA and FCA under existing provisions in sections 55L and 55M of FSMA | PRA and FCA |
| Article 30(1) | Where the conditions for early intervention or appointing a temporary supervisor are met in relation to a Union parent undertaking, the CS shall notify EBA and consult the other CAs within the supervisory college | Articles 111(1) and (2) and 117(2) of SI No. 2 | HMT |
| Article 30(2) | The CS shall then decide whether to apply any of the early intervention measures or appoint a temporary supervisor. The CS shall notify the decision to the other CAs within the supervisory college and EBA | Article 111(3) and (4) of SI No. 2 ; and requirements to be imposed by PRA and FCA under existing provisions in sections 55L and 55M of FSMA | HMT, PRA and FCA |
| Article 30(3) | Required procedure where the conditions for early intervention or appointing a temporary supervisor are met in relation to a subsidiary of a Union parent undertaking | Article 111 of SI No. 2 ; and requirements to be imposed by PRA and FCA under existing provisions in sections 55L and 55M of FSMA | HMT, PRA and FCA |
| Article 30(4) | Required procedure where more than one CA intends to appoint a temporary supervisor or apply any of the early intervention measures to more than one institution in the same group | Articles 113, 114, 118 and 119 of SI No. 2 | HMT |
| Article 30(5) and (6) | Where a CA does not agree with the decision notified in accordance with paragraph 1 or 3, or in the absence of a joint | Article 114(4),(5); 119(3),(4) of SI No. 2 | HMT |

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| | decision under paragraph 4, the CA may refer the matter to the EBA | | |
| Article 30(7) | The decision of each CA shall be reasoned. The decisions shall be provided by the CS to the Union parent undertaking and to the subsidiaries by the respective CAs | Articles 113(3) and 117(6) of SI No. 2 | HMT |
| Article 30(8) | In the absence of a decision by EBA within a specified time period, individual decisions taken in accordance with paragraph 1, 3 or 4 shall apply | Articles 114(4) and 119(3) of SI No. 2 | HMT |
| Title IV - Resolution | | | |
| Chapter I – Objectives, conditions and general principles | | | |
| Article 31 | RAs must have regard to the resolution objectives in this Article when applying the resolution tools | Existing provision in section 4 of BA09 (as amended by article 8 of SI No. 1) | HMT |
| Article 32(1) | MS to ensure that RAs take action in relation to an institution only where the conditions in this Article are met | Existing provisions in BA09: section 7(2), (3), (4), (5A), (5B) and (5F) (as amended by article 12 of SI No. 1); section 81B (as amended by article 90 of SI No. 1); and section 81BA (as amended by article 92 of SI No. 1). New section 81BZA of BA09 (inserted by article 91 of SI No. 1); and revised SRR Code | HMT |
| Article 32(4) | 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 | Existing provision in section 7(5C), (5D) and (5E) of BA09 (as amended by article 12 of SI No. 1) | HMT |
| Article 32(5) | Sets out the public interest test | Existing provision in section 7(5) of BA09 | HMT |

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| | | (as amended by article 12 of SI No. 1) | |
| Article 33 | MS to ensure RAs may take resolution action in relation to a financial institution when the conditions set out in Article 32 are met with regard to both the financial institution and the holding company | Existing provisions in BA09 - section 81B (as amended by article 90 of SI No. 1), section 81BA (as amended by article 92 of SI No. 1), section 81C (as amended by article 93 of SI No. 1), section 81CA (as amended by article 94 of SI No. 1), section 81D (as amended by article 95 of SI No. 1) and section 82; new section 81ZBA of BA09 (inserted by article 91 of SI No. 1); and SI 2014/1831 | HMT |
| Article 34(1) | MS to ensure that, when applying the resolution tools and exercising the resolution powers, RAs take all appropriate measures to ensure that resolution action is taken in accordance with the general principles governing resolution set out in this Article | Existing provisions in BA09 - section 20 (as amended by article 27 of SI No. 1), section 36A (as amended by article 36 of SI No. 1) and section 48N (as amended by article 55 of SI No. 1); new provisions inserted in BA09 - section 6B(2)(a) (inserted by article 10 of SI No. 1), section 12AA(1) (inserted by article 21 of SI No. 1); and revised SRR Code | HMT |
| Article 34(2) | In the case of a group entity, RAs shall apply resolution tools and exercise resolution powers in a way that minimises the impact on other group entities and on the group as a whole and minimises the adverse effects on financial stability in the EU | New section 7A of BA09 (inserted by article 13 of SI No. 1) | HMT |
| Chapter 1A – Special management | | | |

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| Article 35 | MS to ensure that RAs may appoint a special manager to replace the management body of the institution under resolution | Existing provisions in section 136 and section 141 of BA09; new provisions in BA09 - section 6B(5), (6) and (7) (inserted by article 10 of SI No. 1) and sections 62B to 62E (inserted by article 70 of SI No. 1); and revised SRR Code | HMT |
| Chapter II - Valuation | | | |
| Article 36(1) to (9), (12) and (13) | Before taking resolution action or exercising the power to write down or convert relevant capital instruments, RAs to ensure that a fair, prudent and realistic valuation of the assets and liabilities of the institution is carried by an independent person | New provisions in BA09 - section 6E (inserted by article 11 of SI No. 1) and section 62A (inserted by article 69 of SI No. 1) | HMT |
| Article 36(10) | A valuation that does not comply with all the requirements laid down in this article is considered to be provisional until an independent person has carried out a valuation that is fully compliant with all the requirements laid down in this article | New provisions in BA09 - section 48X (inserted by article 61 of SI No. 1) and section 62A (inserted by article 69 of SI No. 1) | HMT |
| Article 36(11) | Provides for the actions that an RA may take as a consequence of a replacement valuation | New section 48Y of BA09 (inserted by article 61 of SI No. 1) | HMT |
| Chapter III – Resolution tools | | | |
| Section 1 – General principles | | | |
| Article 37(1), (3), (4) and (6) | MS to ensure RAs have the necessary powers to apply the resolution tools set out in this Article to institutions: (a) sale of business tool; (b) bridge institution tool; (c) asset separation tool; and (d) bail-in tool | Existing provisions in BA09 - section 11, section 12 (as amended by article 18 of SI No. 1), section 12A (as amended by article 20 of SI No. 1); and new section 12ZA of BA09 (inserted by article 19 of SI No. 1) | HMT |

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| Article 37(2) | Where an RA decides to take resolution action that would result in losses being borne by creditors or their claims being converted, the RA must exercise the power to write down and convert capital instruments in accordance with Article 59 immediately before or together with the application of the resolution tool | New sections 6B(8) of BA09 (inserted by article 10 of SI No.1) | HMT |
| Article 37(5) | RAs may apply the asset separation tool only together with another resolution tool | New section 8ZA(2) of BA09 (inserted by article 15 of SI No. 1) | HMT |
| Article 37(7) | RA and any financing arrangement acting pursuant to article 101 may recover any reasonable expenses | Existing provisions in section 214B of FSMA and in section 58(2)(b) of BA09 | HMT |
| Article 37(8) | MS to ensure certain rules under national insolvency law do not apply to transfers of assets, rights or liability from one institution to another | Existing provisions in sections 187, 189 and 190 of FSMA (as amended by articles 117, 118 and 119 of SI No. 1) | HMT |
| Article 37(9) | MS may confer on RAs certain additional resolution tools and powers | Option not exercised in the UK | HMT |
| Article 37(10) | In the extraordinary situation of a systemic crisis, RA may seek funding from alternative funding sources provided condition set out in this paragraph are met | New section 78A of BA09 (inserted by article 85 of SI No. 1); and revised SRR Code | HMT |
| Section 2 – Sale of business tool | | | |
| Article 38(1) | MS to ensure that RAs have the power to transfer shares, assets, rights and liabilities to a purchaser that is not a bridge institution | Existing provisions in sections 11, 15, 17, 33 and 34 of BA09 | HMT |
| Article 38(2) and (3) | RAs must take all reasonable steps to ensure that transfers made under paragraph 1 are made on commercial terms | Revised SRR Code and EU law on state aid | HMT |
| Article 38(4) | Subject to Article 37(7), any consideration paid by the purchaser must benefit the owners of the shares or the institution under resolution | Section 50(2) of BA09; and revised SRR Code | HMT |

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| Article 38(5) | When applying the sale of business tool, the RA may exercise the transfer power more than once | Existing provision in section 11(2) of BA09 | HMT |
| Article 38(6) | Following the application of the sale of business tool, RAs may, with the consent of the purchaser, exercise transfer rights in respect of assets, rights or liabilities transferred to the purchaser in order to transfer those assets, rights or liabilities back to the institution under resolution | Existing provision in section 26A of BA09 | HMT |
| Article 38(7) | CAs shall ensure that an application by the purchaser for authorisation to transfer shall be considered, in conjunction with the transfer, in a timely manner | Existing provision in section 19 of FSMA | HMT |
| Article 38(8) and (9) | By way of derogation from specified provisions in EU law, where a transfer of shares or other instruments of ownership by virtue of an application of the sale of business tool would result in the acquisition of or increase in a qualifying holding in an institution of a kind referred to in Article 22(1) of Directive 2013/36/EU or Article 11(1) of Directive 2014/65/EU, the CA of that institution shall carry out the assessment required under those provisions in a timely manner | Existing provisions in FSMA - section 187A (as amended by article 117 of SI No. 1), section 189 (as amended by article 118 of SI No. 1) and section 190 (as amended by article 119 of SI No. 1) | HMT |
| Article 38(10) | 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 this Directive | Existing provisions in section 50 of BA09 and SI No. 5 | HMT |
| Article 38(11) | For the purposes of exercising the rights to provide services or to establish itself in another MS in accordance with EU law, the purchaser shall be considered to be a continuation of the institution under resolution, and may continue | Existing provision in sections 18 (as amended by article 25 of SI No. 1), 36 and 63 to 70 of BA09 (as amended by articles 71 to 76 of SI No. 1) | HMT |

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| | to exercise any such right that was exercised by the institution under resolution in respect of the assets, rights or liabilities transferred | | |
| Article 38(12) | MS to ensure that the purchaser may continue to exercise the rights of membership and access to payment, clearing and settlement systems, stock exchanges, investor compensation schemes and deposit guarantee schemes of the institution under resolution, provided that it meets the membership and participation criteria for participation in such systems | Existing provision in BA09 - section 18 (as amended by article 25 of SI No. 1), section 36, sections 63 to 68 (as amended by articles 71 to 76 of SI No. 1), section 69 and section 70 | HMT |
| Article 38(13) | Shareholders or creditors of the institution under resolution and other third parties whose assets, rights or liabilities are not transferred shall not have any rights over or in relation to the assets, rights or liabilities transferred | Existing provision in section 17 of BA09 (as amended by article 24 of SI No. 1). | HMT |
| Article 39 | 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. The marketing must be carried out in accordance with the criteria set out in this Article | Revised SRR Code | HMT |
| Section 3 – Bridge institution tool | | | |
| Article 40(1) | To give effect to the bridge institution tool and having regard to the need to maintain critical functions in the bridge institution, MS to ensure that resolution authorities have the | Existing provision in BA09 - section 12(1A) and (2) (as amended by article 18 of SI No. 1), section 34(2) and (4) and section 41A (as | HMT |

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| | power to transfer to a bridge institution | amended by article 41 of SI No. 1) | |
| Article 40(2) | The bridge institution shall be a legal person that meets all of the requirements set out in this paragraph. The application of the bail-in tool for the purpose referred to in point (b) of Article 43(2) shall not interfere with the ability of the RA to control the bridge institution | Existing provision in section 12 of BA09 (as amended by article 18 of SI No. 1); and revised SRR Code | HMT |
| Article 40(3) | When applying the bridge institution tool, the RA shall ensure that the total value of liabilities transferred to the bridge institution does not exceed the total value of the rights and assets transferred from the institution under resolution or provided by other sources | Revised SRR Code | HMT |
| Article 40(4) | Subject to Article 37(7), any consideration paid by the bridge institution must benefit the owners of the shares or the institution under resolution | Existing provision in section 52(2) of BA09 (as amended by article 63 of SI No. 1) | HMT |
| Article 40(5) | When applying the bridge institution tool, the RA may exercise the transfer power more than once | Existing provision in BA09 - section 12 (as amended by article 18 of SI No. 1) and section 42 (as amended by article 42 of SI No. 1) | HMT |
| Article 40(6) | Following an application of the bridge institution tool, RAs may, with the consent of the purchaser, exercise transfer rights in respect of assets, rights or liabilities transferred to the purchaser in order to transfer those assets, rights or liabilities back to the institution under resolution | Existing provision in BA09 - section 43 (as amended by article 43 of SI No. 1) and section 44 (as amended by article 44 of SI No. 1) | HMT |
| Article 40(7) | RAs may transfer shares or other instruments of ownership, or assets, rights or liabilities back from the bridge institution in one of the following circumstances | Existing provision in section 44 of BA09 (as amended by article 44 of SI No. 1) | HMT |
| Article 40(8) | Transfers between the institution under resolution, or | Existing provision in section 52(4) of BA09 | HMT |

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| | the original owners of shares or other instruments of ownership, on the one hand, and the bridge institution on the other, shall be subject to the safeguards referred to in Chapter VII of Title IV of this Directive | | |
| Article 40(9) | For the purposes of exercising the rights to provide services or to establish itself in another MS, a bridge institution shall be considered to be a continuation of the institution under resolution, and may continue to exercise any such right that was exercised by the institution under resolution in respect of the assets, rights or liabilities transferred | Existing provision in BA09 - section 18 (as amended by article 25 of SI No. 1), section 36 and section 48Q | HMT |
| Article 40(10) | MS to ensure that the bridge institution may continue to exercise the rights of membership and access to payment, clearing and settlement systems, stock exchanges, investor compensation schemes and deposit guarantee schemes of the institution under resolution, provided that it meets the membership and participation criteria for participation in such systems | Existing provision in BA09 - sections 23, 36, 40 and 48S | HMT |
| Article 40(11) | Without prejudice to Chapter VII of Title IV of this Directive, shareholders or creditors of the institution under resolution and other third parties whose assets, rights or liabilities are not transferred to the bridge institution shall not have any rights over or in relation to the assets, rights or liabilities transferred to the bridge institution, its management body or senior management | Existing provisions in BA09 - section 17 (as amended by article 24 of SI No. 1) and section 34 | HMT |
| Article 40(12) | The objectives of the bridge institution shall not imply any | Existing provision in sections 17 of BA09 (as | HMT |

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| | duty or responsibility to shareholders or creditors of the institution under resolution, and the management body or senior management shall have no liability to such shareholders or creditors for acts and omissions in the discharge of their duties unless the act or omission implies gross negligence or serious misconduct in accordance with national law which directly affects rights of such shareholders or creditors | amended by article 24 of SI No. 1) | |
| Article 41(1) | MS to ensure that the operation of a bridge institution respects the requirements in this paragraph | Existing provision in section 19 of FSMA and section 256A of BA09; Revised SRR Code | HMT |
| Article 41(2) | Subject to any restrictions imposed in accordance with Union or national competition rules, the management of the bridge institution shall operate the bridge institution with a view to maintaining access to critical functions and selling the institution, its assets, rights or liabilities, to one or more private sector purchasers when conditions are appropriate and within the period specified in paragraph 4 of this Article or, where applicable, paragraph 6 of this Article | Revised SRR Code | HMT |
| Article 41(3) | The RA to take a decision that the bridge institution is no longer a bridge institution within the meaning of article 40(2) in any of the cases set out in this paragraph | New section 12(3A) and (3B) of BA09 (inserted by article 18 of SI No. 1) | HMT |
| Article 41(4) | MS to ensure, in cases when the RA seeks to sell the bridge institution or its assets, rights or liabilities, that the bridge institution or the relevant assets or liabilities are marketed openly and transparently, and that the sale | Revised SRR Code; and EU law on state aid and competition | HMT |

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| | does not materially misrepresent them or unduly favour or discriminate between potential purchasers | | |
| Article 41(5) | If none of certain outcomes referred to in paragraph 3 apply, the RA must terminate the operation of the bridge institution within a specified time period | New section 12(3A) and (3C) of BA09 (inserted by article 18 of SI No.1) | HMT |
| Article 41(6) | The RA may extend the specified time period for termination | New section 12(3D) of BA09 (inserted by article 18 of SI No.1) | HMT |
| Article 41(7) | Any decision of the RA to extend the specified time period for termination must be reasoned, and explain the justification for the extension | Revised SRR Code | HMT |
| Article 41(8) | Where the operations of a bridge institution are terminated in certain of the circumstances mentioned in paragraph 3, the bridge institution shall be wound up under normal insolvency proceedings. Subject to Article 37(7), any proceeds generated as a result of the termination of the operation of the bridge institution shall benefit the shareholders of the bridge institution | New section 12(3A) of BA09 (inserted by article 18 of SI No. 1); and existing provisions in section 41(8), section 49(3) and section 52 of BA09 | HMT |
| Article 41(9) | Where a bridge institution is used for the purpose of transferring assets and liabilities of more than one institution under resolution the obligation referred to in paragraph 8 shall refer to the assets and liabilities transferred from each of the institutions under resolution and not to the bridge institution itself | Existing provision in section 12 of BA09 (as amended by article 18 of SI No. 1) | HMT |
| Section 4 – Asset separation tool | | | |

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| Article 42(1) to (3), (8), (9) and (10) | MS to ensure that RAs have the power to transfer assets, rights or liabilities of an institution under resolution or a bridge institution to one or more asset management vehicles | New section 12ZA of BA09 (inserted by article 19 of SI No. 1) | HMT |
| Article 42(4) | MS to ensure that the operation of an asset management vehicle respects the provisions set out in this paragraph | Revised SRR Code | HMT |
| Article 42(5) | RAs may exercise the power under this article to transfer assets, rights or liabilities only if the conditions set out in this paragraph are met | New section 8ZA(3) of BA09 (inserted by article 15 of SI No. 1) | HMT |
| Article 42(6) | RAs to determine the consideration for which assets, rights and liabilities are transferred to the asset management vehicle | New section 6E(4)(v) of BA09 (inserted by article 11 of SI No. 1) | HMT |
| Article 42(7) | Subject to Article 37(7), any consideration paid by the asset management vehicle in respect of the assets, rights or liabilities acquired directly from the institution under resolution shall benefit the institution under resolution | Existing provision in section 52 of BA09 (as amended by article 63 of SI No. 1) | HMT |
| Article 42(11) | Transfers between the institution under resolution and the asset management vehicle shall be subject to the safeguards for partial property transfers specified in this Directive | Existing provision in SI 2009/322 (as amended by article 124 of SI No. 1) | HMT |
| Article 42(12) | Shareholders or creditors of the institution under resolution and other third parties whose assets, rights or liabilities are not transferred to the asset management vehicle shall not have any rights over or in relation to the assets, rights or liabilities transferred to the asset management vehicle | Existing provision in SI 2009/322 (as amended by article 124 of SI No. 1) | HMT |
| Article 42(13) | The objectives of an asset management vehicle shall not | Existing provision in SI 2009/322 (as amended | HMT |

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| | imply any duty or responsibility to shareholders or creditors of the institution under resolution, and the management body or senior management shall have no liability to such shareholders or creditors for acts and omissions in the discharge of their duties unless the act or omission implies gross negligence or serious misconduct | by article 125 of SI No. 1) | |
| Section 5 – Bail-in tool | | | |
| Subsection 1 – Objective and scope | | | |
| Article 43 | MS to ensure that RAs have the resolution powers specified in Article 63(1); and that RAs may apply the bail-in tool to meet the resolution objectives specified in Article 31 for any of the purposes specified in this Article, subject to the restrictions provided for in Article 43. | Existing provisions in BA09 - section 12A(2A) (as amended by article 20 of SI No. 1) and section 48B (as amended by article 48 of SI No. 1) ; and SI No. 6 and the SRR Code. Power to change the legal form of the entity is provided in SI No. 6 | HMT |
| Article 44(1) to (3), (9), (10) and (12) | MS to ensure that the bail-in tool may be applied to all liabilities of a specified institution or entity that are not excluded from the scope of that tool pursuant to this Article | Existing provision in BA09 - section 48B (as amended by article 48 of SI No. 1) , section 48C (as amended by article 49 of SI No. 1) , section 48E, section 48L (as amended by article 53 of SI No. 1) and section 75 BA09; Schedule 17 to FA11; and revised SRR Code | HMT |
| Article 44(4) - (8) | The resolution financing arrangement may make a contribution to the institution under resolution only where the conditions set out in these paragraphs apply | New section 78A of BA09 (inserted by article 85 of SI No. 1) ; and revised SRR Code | HMT |

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| Subsection 2 – Minimum requirement for own funds and eligible liabilities | | | |
| Article 45(1) and (2) | MS to ensure that institutions meet, at all times, a minimum requirement for own funds and eligible liabilities. The minimum requirement shall be calculated as the amount of own funds and eligible liabilities expressed as a percentage of the total liabilities and own funds of the institution | New section 3A(4) of BA09 (inserted by article 6 of SI No. 1); and articles 121 to 146 of SI No. 2 | HMT |
| Article 45(3) | Exemption for mortgage credit institutions financed by covered bonds | Article 121 and 125(3) of SI No. 2 | HMT |
| Article 45(4) | Eligible liabilities must be included in the amount of own funds and eligible liabilities only where they satisfy the conditions set out in this paragraph | Article 123(4) of SI No. 2 | HMT |
| Article 45(5) | Where a liability is governed by the law of a third-country, RAs may require the institution to demonstrate that any decision of an RA to write down or convert that liability would be effective under the law of that third country, having regard to the terms of the contract governing the liability, international agreements on the recognition of resolution proceedings and other relevant matters | Article 123(4)(g) of SI No. 2 | HMT |
| Article 45(6) | The minimum requirement for own funds and eligible liabilities shall be determined by the RA, after consulting the CA, at least on the basis of the criteria set out in this paragraph | Article 123(6) and (7) of SI No. 2 | HMT |
| Article 45(7) | Institutions shall comply with the minimum requirements | Articles 122, 126(2), 134(1)(a) of SI No. 2 | HMT, Bank |

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| | laid down in this Article on an individual basis; the RA may apply the minimum requirement to other group entities | The Bank may require MREL be held by other group companies under new section 3A(4) of BA09 (inserted by article 6 of SI No. 1) and PRA and FCA Rules | |
| Article 45(8) and (9) | Union parent undertakings shall comply with the minimum requirements laid down in this Article on a consolidated basis and in accordance with the procedural requirements set out in paragraph 8. The group-level RA and the RAs responsible for the subsidiaries on an individual basis shall do everything within their power to reach a joint decision on the level of the minimum requirement applied at the consolidated level; and shall comply with the procedural requirements set out in paragraph 8 | Articles 126(2), 130–132 of SI No. 2 | HMT, Bank |
| Article 45(10) | <p>RAs shall set the minimum requirement to be applied to the group's subsidiaries on an individual basis. Those minimum requirements shall be set at a level appropriate for the subsidiary having regard to criteria specified in this paragraph.</p> <p>The group-level RA and the RAs responsible for subsidiaries on an individual basis shall do everything within their power to reach a joint decision on the level of the minimum requirement to be applied to each respective subsidiary at an individual level; and shall comply with the procedural requirements set out in this paragraph</p> | Articles 133 to 146 of SI No. 2 | HMT |

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| Article 45(11) and (12) | The group-level RA and RA of a subsidiary may fully waive the application of the individual capital requirements to the relevant institution where the conditions specified in these paragraphs apply | New section 3A(4) of BA09 (inserted by article 6 of SI No. 1); and article 147 of SI No. 2 | HMT |
| Article 45(13) and (14) | The decisions taken in accordance with this Article may provide that the minimum requirement for own funds and eligible liabilities is partially met at consolidated or individual level through contractual bail-in instruments | New section 3A(4) of BA09 (inserted by article 6 of SI No. 1); article 149 of SI No. 2 ; and revised SRR Code | HMT |
| Article 45(15) | RAs, in coordination with CAs, shall require and verify that institutions meet the minimum requirement for own funds and eligible liabilities laid down in paragraph 1 and where relevant the requirement laid down in paragraph 13, and shall take any decision pursuant to this Article in parallel with the development and the maintenance of resolution plans | Articles 37(2) and 134(1) of, and paragraph 4(2)(q) and (r) of Schedule 1 to, SI No. 2 | HMT |
| Article 45(16) | RAs, in coordination with CAs, to inform EBA of the minimum requirements for own funds and eligible liabilities that have been set for each institution under their jurisdiction | Articles 122(2) and 134(3) of SI No. 2 | HMT |
| Subsection 3 - Implementation | | | |
| Article 46(1) to (3) | MS to ensure that, when applying the bail-in tool, RAs assess on the basis of a valuation that complies with Article 36 the aggregate of criteria specified in this Article; write up mechanism available | New section 6E (inserted by articles 11 of SI No. 1); new section 12AA of BA09 (inserted by article 21 of SI No. 1); new sections 48X and 48Y (inserted by article 61 of SI No. 1) | HMT |

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| Article 46(4) | RAs to establish and maintain arrangements to ensure that the assessment and valuation is based on information about the assets and liabilities of the institution under resolution that is as up to date and comprehensive as is reasonably possible | Revised SRR Code | HMT |
| Article 47(1) to (3) | MS to ensure that, when applying the bail-in tool in Article 43(2) or the write down or conversion of capital instruments in Article 59, RAs take in respect of shareholders and holders of other instruments of ownership one or both of the actions specified in paragraph 1; and having regard to the matters specified in paragraph 3 | New sections 6B (inserted by article 10 of SI No. 1) and 12AA (inserted by article 21 of SI No. 1) of BA09 | HMT |
| Article 47(4) and (5) | Where the application of the bail-in tool or the conversion of capital instruments would result in the acquisition of or increase in a qualifying holding in certain institutions, CAs to carry out the assessment required under those Articles in a timely manner that does not delay the application of the bail-in tool or the conversion of capital instruments, or prevent resolution action from achieving the relevant resolution objectives | Existing provision in FSMA - section 187A (as amended by article 117 of SI No. 1), section 189 (as amended by article 118 of SI No. 1), and section 190 (as amended by article 119 of SI No. 1) | HMT |
| Article 48 | MS to ensure that, when applying the bail-in tool, RAs exercise the write down and conversion powers, subject to any exclusions under Article 44(2) and (3), meeting the requirements specified in this Article | New section 12AA(1) of BA09 (inserted by article 21 of SI No. 1) | HMT |
| Article 49 | MS to ensure that this Article is complied with when | Articles 157 and 158 of SI No. 2 | HMT |

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| | resolution authorities apply the write-down and conversion powers to liabilities arising from derivatives | | |
| Article 50 | MS to ensure that, when resolution authorities exercise the powers specified in Article 59(3) and point (f) of Article 63(1), they may apply a different conversion rate to different classes of capital instruments and liabilities in accordance with one or both of the principles referred to in this Article | New section 6C(4)(d) of BA09 (inserted by article 10 of SI No. 1) | HMT |
| Article 51 | MS to ensure that, where RAs apply the bail-in tool to recapitalise a relevant institution or entity, arrangements are adopted to ensure that a business reorganisation plan for that institution or entity is drawn up and implemented in accordance with Article 52 | New provisions in BA09 - section 12A (2C) (inserted by article 20 of SI No. 1) and section 48H (as amended by article 51 of SI No. 1) | HMT |
| Article 52 | MS to require that, within one month after the application of the bail-in tool to a specified institution or entity, the management body or the person or persons appointed in accordance with Article 72(1) shall draw up and submit to the RA, a business reorganisation plan that satisfies the requirements of paragraphs 4 and 5 of this Article | New Section 12A(2C) of BA09 (inserted by article 20 of SI No. 1), existing provision in section 48H of BA09 (as amended by article 51 of SI No. 1); and articles 159 to 180 of SI No. 2 | HMT |
| Subsection 4 – Ancillary provisions | | | |
| Article 53(1) | MS to ensure that where a resolution authority exercises a power referred to in Article 59(2) and in points (e) to (i) of Article 63(1), the reduction of principal or outstanding amount due, conversion or cancellation takes effect and is immediately binding on the | Existing provision in section 48S in BA09 | HMT |

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| | institution under resolution and affected creditors and shareholders | | |
| Article 53(2) | MS to ensure that the RA shall have the power to complete or require the completion of all the administrative and procedural tasks necessary to give effect to the exercise of a power referred to in Article 59(2) and in points (e) to (i) of Article 63(1) | Existing provisions in BA09 - section 48L (as amended by article 53 of SI No. 1) and section 48R; new section 6D of BA09 (inserted by article 10 of SI No. 1); and existing provision in section 77 of FSMA (as amended by article 114 of SI No. 1) and existing provision in section 78 of FSMA (as amended by article 115 of SI No. 1) | HMT |
| Article 53(3) | Where an RA reduces to zero the principal amount of, or outstanding amount payable in respect of, a relevant liability by means of the power referred to in point (e) of Article 63(1), that liability and any obligations or claims arising in relation to it that are not accrued at the time when the power is exercised shall be treated as discharged for all purposes, and shall not be provable in any subsequent proceedings in relation to the institution under resolution or any successor entity in any subsequent winding up | Existing provision in section 17 of BA09 (as amended by article 24 of SI No. 1) | HMT |
| Article 53(4) | Provisions that apply where an RA reduces in part, but not in full, the principal amount of, or outstanding amount payable in respect of, a liability by means of the power referred to in point (e) of Article 63(1) | Existing provision in section 48S in BA09 | HMT |
| Article 54(1) | MS to require specified institutions and entities to maintain at all times a sufficient amount of authorised share capital or of | No limit on authorised share capital is required in the UK. But for those that still have a limit see articles 154 and 155 of SI No.2. | HMT |

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| | other Common Equity Tier 1 instruments | | |
| Article 54(2) and (3) | <p>RAs to assess whether it is appropriate to impose the requirement laid down in paragraph 1 in the case of a relevant institution or entity in the context of the development and maintenance of the resolution plan for that institution or group.</p> <p>MS to ensure that there are no procedural impediments to the conversion of liabilities to shares or other instruments of ownership</p> | Articles 155 and 156 of SI No. 2 | HMT |
| Article 55(1) | MS to require relevant institutions and entities to include a contractual term by which the creditor or party to the agreement creating the liability recognises that liability may be subject to the write-down and conversion powers and agrees to be bound by any reduction of the principal or outstanding amount due, conversion or cancellation that is effected by the exercise of those powers by an RA, provided that such liability meets certain specified criteria | FCA and PRA Rules | FCA, PRA |
| Article 55(2) | If a relevant institution or entity fails to include in the contractual provisions governing a relevant liability a term required in accordance paragraph 1, that failure shall not prevent the RA from exercising the write down and conversion powers in relation to that liability | Section 48B in BA09, as amended by article 48 of SI No 1 (the bail in powers in the BA are not limited and apply to liabilities that do not have a contractual term). | HMT |
| Article 56(1) | MS may provide extraordinary public financial support through additional financial stabilisation tools (set out in Articles 57 and 58) for the | Existing provisions in BA09 - section 228, section 229 and section 256A (as amended by article 109 of SI No. 1) | HMT |

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| | purpose of participating in the resolution of a relevant institution or an entity. Such an action shall be carried out under the leadership of the competent ministry or the government in close cooperation with the RA | | |
| Article 56(2) and (3) | MS to ensure that their competent ministries or governments have the relevant resolution powers specified in Articles 63 to 72, and shall ensure that Articles 66, 68, 83 and 117 apply | Existing provision in section 13 of BA09 (as amended by article 23 of SI No. 1); | HMT |
| Article 56(4) | MS to ensure that their competent ministries or governments and the resolution authority apply the government financial stabilisation tools only if all the conditions laid down in Article 32(1), as well as one of the conditions set out in this paragraph, are met | Existing provisions in BA09 - section 9 (as amended by article 17 of SI No. 1) and section 13 (as amended by article 23 of SI No. 1) | HMT |
| Article 57 | MS may provide public equity support (the public equity support financial stabilisation tool) in the circumstances set out in this Article | New section 78A of BA09 (inserted by article 85 of SI No. 1); existing provisions in sections 228 and 257 of BA09; and revised SRR Code | HMT |
| Article 58 | MS may take a relevant institution or entity into temporary public ownership (the temporary public ownership financial stabilisation tool) in the circumstances set out in this Article | Existing provision in section 13 of BA09 (as amended by article 23 of SI No. 1); and revised SRR Code | HMT |
| Chapter IV – Write down of capital instruments | | | |
| Article 59(1) | The power to write down or convert relevant capital instruments may be exercised either (a) independently of resolution action; or (b) in | New sections in BA09 – section 6A (inserted by article 10 of SI No. 1) and section 81AA | HMT |

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| | combination with a resolution action, where the conditions for resolution specified in articles 32 and 33 are met | (inserted by article 89 of SI No. 1) | |
| Article 59(2) and (10) | MS to ensure that the RAs have the power to write down or convert relevant capital instruments into shares or other instruments of ownership of relevant institutions and entities | New sections in BA09 – sections 6A(3)(a) and 6B(3) and (4) (inserted by article 10 of SI No. 1) and section 81AA (inserted by article 89 of SI No. 1) | HMT |
| Article 59(3), (8) and (9) | MS to require that RAs exercise the write down or conversion power in accordance with Article 60 and without delay when one or more of the circumstances set out in this paragraph apply | New provisions in BA09 - section 12A(2B) (inserted by article 20 of SI No. 1); and section 81AA (inserted by article 89 of SI No. 1) | HMT |
| Article 59(4) to (6) | MS to require that RAs exercise the write down or conversion power, in accordance with Article 60 and without delay, in relation to relevant capital instruments issued by a relevant institution or entity when one or more of the circumstances set out in paragraph 3 applies | New provisions in BA09 - sections 6A and 6B(1) (inserted by article 10 of SI No. 1) and section 81AA (inserted by article 89 of SI No. 1); and article 150 of SI No. 2 | HMT |
| Article 59(7) | A relevant capital instrument issued by a subsidiary shall not be written down to a greater extent or converted on worse terms pursuant to point (c) of paragraph 3 than equally ranked capital instruments at the level of the parent undertaking which have been written down or converted | New provisions in BA09 - section 6B(9) (inserted by article 10 of SI No. 1) and section 81AA (inserted by article 89 of SI No. 1) | HMT |
| Article 60 | When complying with the requirement laid down in Article 59, RAs shall exercise the write down or conversion power in accordance with the priority of claims under normal insolvency proceedings, in a way that produces the results specified in this Article | New provisions in BA09 - sections 6B(2) and 6C (inserted by article 10 of SI No. 1) and section 81AA (inserted by article 89 of SI No. 1) | HMT |

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| Article 61(1) and (2) | Each MS to designate in national law the appropriate authority which shall be responsible for making determinations pursuant to Article 59. The appropriate authority may be the CA or the RA, in accordance with Article 32 | Article 5 of SI No. 2 | HMT |
| Article 61(3) | Where the relevant capital instruments are recognised for the purposes of meeting own funds requirements on an individual basis, the authority responsible for making the determination referred to in Article 59(3) shall be the authority set out in this paragraph | Article 149(2) of SI No. 2 (definition of “appropriate authority”) | HMT |
| Article 62(1), (2) and (3) | MS to ensure that, before making a determination referred to in point (b), (c), (d) or (e) of Article 59(3) in relation to a subsidiary that issues relevant capital instruments that are recognised for the purposes of meeting the own funds requirements on an individual and a consolidated basis, appropriate authorities comply with the requirements specified in paragraph 1 | Article 150 of SI No. 2 | HMT |
| Article 62(4) and (6) | Where a notification has been made pursuant to paragraph 1, the appropriate authority, after consulting the authorities notified, shall assess the matters specified in paragraph 4 | Article 151 of SI No. 2 | HMT |
| Article 62(5) | For the purposes of paragraph 4, alternative measures mean early intervention measures referred to in Article 27 of this Directive, measures referred to in Article 104(1) of Directive 2013/36/EU or a transfer of | Article 149(2) of SI No. 2 | HMT |

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| | funds or capital from the parent undertaking | | |
| Article 62(6) | Where, pursuant to paragraph 4, the appropriate authority, after consulting the notified authorities, assesses that one or more alternative measures are available, can feasibly be applied and would deliver the outcome referred to in point (c) of that paragraph, it shall ensure that those measures are applied | Article 151 of SI No. 2 | HMT |
| Article 62(7) | Where, in a case referred to in point (a) of paragraph 1, and pursuant to paragraph 4 of this Article, the appropriate authority, after consulting the notified authorities, assesses that no alternative measures are available that would deliver the outcome referred to in point (c) of paragraph 4, the appropriate authority shall decide whether the determination referred to in Article 59(3) under consideration is appropriate | Article 152 of SI No. 2 | HMT |
| Article 62(8) | Where an appropriate authority decides to make a determination under point (c) of Article 59(3), it shall immediately notify the appropriate authorities of the MS in which the affected subsidiaries are located and the determination shall take the form of a joint decision as set out in Article 92(3) and (4). In the absence of a joint decision no determination under point (c) of Article 59(3) shall be made | Article 152(4) of SI No. 2 | HMT |
| Chapter V – Resolution powers | | | |
| Article 63 | MS to ensure that RAs have all the powers necessary to apply | Existing provisions in BA09: - sections 3A (as inserted by article 6 of | HMT |

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| | the resolution tools to relevant institutions and entities | SI No 1 ; 12A (as amended by article 20 of SI No 1); 15; 20 (as amended by article 27 of SI No. 1), 33; 36A (as amended by article 36; of SI No. 1); 48B (as amended by article 48 of SI No. 1); 48L (as amended by article 53 of SI No 1) and 48N (as amended by article 55 of SI No. 1); 62B – 62E (as inserted by article 70 of SI No.1); section 189 of FSMA (as amended by article 118 of SI No 1) | |
| Article 64 | MS to ensure that, when exercising a resolution power, the RAs have specified ancillary powers | Existing provisions in BA09 - sections 17(5)(6) (as amended by article 24 of SI No 1); 18 (as amended by article 25 of SI No 1); 19(3) (as amended by article 26 of SI No. 1), 34; 36; 39B (inserted by article 39 of SI No. 1); 64(4) and (5) (as amended by article 72 of SI No. 1) and 67(4) and (5) (as amended by article 75 of SI No. 1); and existing provisions in FSMA - section 77 (as amended by article 114 of SI No. 1) and section 78 (as amended by article 115 of SI No. 1) | HMT |
| Article 65 | MS to ensure that RAs have the power to require an institution under resolution, or any of its group entities, to provide any services or facilities that are necessary to enable a recipient to operate effectively the business transferred to it | Existing provisions in BA09 - section 63 (as amended by article 71 of SI No. 1), section 64(6) (as amended by article 72 of SI No. 1), section 66 (as amended by article 74 of SI No. 1) and section 67 (as | HMT |

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| | | amended by article 75 of SI No. 1) | |
| Article 66 | MS to ensure that where a transfer of shares or other instruments of ownership, or assets, rights and liabilities includes assets that are located in another MS, the transfer has effect in or under the law of that other MS | Existing provision in SI 2004/1045 (which implements Directive 2001/24/EC) | HMT |
| Article 67 | MS to provide that RAs have power in respect of assets, rights and liabilities, shares and other instruments of ownership located in third countries | Existing provision in section 39 of BA09 (as amended by article 38 of SI No. 1) | HMT |
| Article 68 | Exclusion of certain contractual terms in early intervention and resolution | New section 48Z of BA09 inserted by article 62 of SI No. 1) | HMT |
| Article 69 | MS to ensure that RAs gave the power to suspend certain payment and delivery obligations pursuant to any contract to which an institution under resolution is a party | New sections 70A and 70D of BA09 (inserted by article 77 of SI No. 1) | HMT |
| Article 70 | MS to ensure that RAs have the power to restrict the enforcement of security interests | New sections 70B and 70D of BA09 (inserted by article 77 of SI No. 1) | HMT |
| Article 71 | MS to ensure that RAs have the power to suspend the termination rights of any party to a contract with an institution under resolution | New sections 70C and 70D of BA09 (inserted by article 77 of SI No. 1) | HMT |
| Article 72(1) to (3) | MS to ensure that, in order to take a resolution action, RAs are able to exercise control over the institution under resolution in relation to specified activities and services | New sections 62B to 62E of BA09 (inserted by article 70 of SI No. 1) | HMT |
| Article 72(4) | RAs shall not be deemed to be shadow directors or de facto directors under national law | Articles 217 of SI No. 2 | HMT |
| Chapter VI - Safeguards | | | |
| Article 73 | MS to ensure that where one or more of the resolution tools have been applied, and in particular for the purposes of | Existing provisions in sections 49 to 62 of BA09 (as amended by articles 63 to 68 of SI | HMT |

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| | Article 75, relevant shareholders and creditors are not worse off than they would have been under normal insolvency proceedings | No. 1 ; SI 2009/319 (as amended by article 126 of SI No. 1); and, in particular, regulations 4 and 7 of SI No. 4 | |
| Article 74 | MS to ensure that an independent valuation is carried out as soon as possible after the resolution action has been effected for the purposes of assessing whether or not shareholders and creditors would have received better treatment under normal insolvency proceedings | Existing provisions in BA09 - section 57, section 60 (as amended by article 67 of SI No. 1), section 60A, section 60B (as amended by article 68 of SI No. 1); new section 62A of BA09 (inserted by article 69 of SI No. 1); existing provisions in SI 2009/319 - regulation 4 (as amended by article 126 of SI No. 1) and regulations 5 to 7; and regulations 6 to 9 of SI No. 4 | HMT |
| Article 75 | MS to ensure that if the independent valuation determines that any shareholder or creditor has incurred greater losses than it would have under normal insolvency proceedings, it is entitled to the payment of the difference from the resolution financing arrangements | Existing provisions in BA09 - sections 49 to 52 (as amended by article 63 of SI No. 1), section 53 (as amended by article 64 of SI No. 1), section 56, section 57, section 58 (as amended by article 66 of SI No. 1), section 59, section 60 (as amended by article 67 of SI No. 1), section 60A, section 60B (as amended by article 68 of SI No. 1), section 61, section 62 and section 228; new section 62A of BA09 (inserted by article 69 of SI No. 1); regulations 4 and 7 of SI No. 4 ; and Schedule 2 to SI 2010/2220 | HMT |
| Article 76 | MS to ensure that certain safeguards and other protections for counterparties in partial transfers apply | Existing provisions in BA09 - section 47 (as amended by article 47 of SI No. 1) and section | HMT |

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| | | 48; and SI 2009/322 (as amended by article 125 of SI No. 1) | |
| Article 77 | MS to ensure that there is appropriate protection for title transfer financial collateral arrangements and set-off and netting arrangements so as to prevent the transfer of certain protected rights and liabilities | S Existing provisions in BA09 - section 47 (as amended by article 47 of SI No. 1) and section 48; and, in particular, articles 3 and 4 of SI 2009/322 | HMT |
| Article 78 | MS to ensure that there is appropriate protection for certain liabilities secured under a security arrangement | Existing provisions in BA09 - section 47 (as amended by article 47 of SI No. 1) and section 48; and, in particular, article 5 of SI 2009/322 | HMT |
| Article 79 | MS to ensure that there is appropriate protection for certain structured finance arrangements and covered bonds | Existing provisions in BA09 - section 47 (as amended by article 47 of SI No. 1) and section 48; and, in particular, article 6 of SI 2009/322 | HMT |
| Article 80 | MS to ensure that there is appropriate protection of trading, clearing and settlement systems where a RA makes certain partial property transfers | Existing provisions in BA09 - section 47 (as amended by article 47 of SI No. 1) and section 48; in particular, article 4 of SI 2009/322; and SI 1999/2979 | HMT |
| Chapter VII – Procedural obligations | | | |
| Article 81(1) | MS to require the management body of a relevant institution or entity to notify the CA where they consider that institution or body is failing or likely to fail | Article 182(a) of SI No. 2 and PRA and FCA Rules | HMT, PRA and FCA |
| Article 81(2) | CAs to inform relevant RAs of any notifications received under paragraph 1 and of any crisis prevention measures or actions referred to in Article 104 of Directive 2013/36/EU that they require a relevant institution or entity to take | Article 182 of SI No. 2 | HMT |
| Article 81(3) and (4) | Where a CA or RA determines that the Article 32(1)(a) and (b) conditions are met in relation to a relevant | Article 183 of SI No. 2 | HMT |

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| | institution or entity it must communicate that determination to the authorities listed in this paragraph | | |
| Article 82 | On receiving a notification under Article 81, or on its own initiative, the RA to determine whether or not to take resolution action | Part 14 (procedural obligations where an undertaking is failing or likely to fail) of SI No. 2 | HMT |
| Article 83(1) to (4) | MS to ensure that, as soon as reasonably practicable after taking a resolution action, RAs must comply with the procedural obligations set out in this Article | Existing provisions in BA09 - section 24 (as amended by article 29 of SI No. 1), section 25 (as amended by article 30 of SI No. 1), section 41 (as amended by article 40 of SI No. 1), section 48, section 48T (as amended by article 57 of SI No. 1); new section 89J of BA09 (inserted by 103 of SI No. 1); and revised SRR Code | HMT |
| Article 83(5) | If the shares, instruments of ownership or debt instruments are not admitted to trading on a regulated market, the RA shall ensure that the documents providing proof of the relevant instruments are sent to the shareholders and creditors of the institution under resolution | Article 184 of SI No. 2 | HMT |
| Article 84 | MS to ensure that no confidential information is disclosed by the persons listed in this Article | New section 89L of BA09 (inserted by article 103 of SI No. 1); and SI 2001/2188 (as amended by article 226 of, and Schedule 3 to, SI No. 2) | HMT |
| Chapter IX – Right of appeal and exclusion of other actions | | | |
| Article 85(1) | Option to require ex ante judicial approval | The UK is not implementing this option | HMT |

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| Article 85(2) | MS to provide in national law for a right of appeal against a decision to take a crisis prevention measure or a decision to exercise any power, other than a crisis management power under this Directive | Existing provision in section 55X, 55Y and Part IX (Hearings and Appeals) of FSMA; new section 83ZW inserted by article 97 of SI No. 1 ; Part 54 of the Civil Procedure Rules (judicial review). | HMT |
| Article 85(3) | Right to appeal crisis management measures | Part 54 of the Civil Procedure Rules (judicial review) and Part IX (hearings and appeals) of FSMA | HMT |
| Article 85(4) | Right to appeal crisis management measures has no automatic suspension, is immediately enforceable and there is a presumption that it is in the public interest; plus rule to protect some third parties | Judicial review does not entail automatic suspension; decisions are immediately enforceable. The Bank may only take a CMM where it is in the public interest (s. 7(4) BA as inserted by article 12 of SI No. 1), so this evidence will be before the court. Protection for third parties is in Article 186 of SI No. 2 . | HMT |
| Article 86(1) | MS to ensure that where an institution or entity is being resolved under this Directive, normal insolvency proceedings may not be commenced without consent of the RA | New section 89K of BA09 (inserted by article 103 of SI No. 1) | HMT |
| Article 86(2) | MS to ensure that CAs and RAs are notified without delay of any application for the commencement of normal insolvency proceedings in relation to the relevant institution or entity; and that the application is not determined unless such notifications have been made an either of the two circumstances specified in this paragraph occurs | Existing provision in section 120 of BA09 (as amended by article 105 of SI No. 1); and new section 120A of BA09 (inserted by article 106 of SI No.1) | HMT |

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| Article 86(3) | MS to ensure that RAs may apply to the court for a stay in relation to any judicial action or proceedings to which an institution under resolution is or becomes a party | Article 185 of SI No. 2 | HMT |
| Title V – Cross-border group resolution | | | |
| Article 87 | MS to ensure that, when making decisions or taking action pursuant this Directive which may have an impact in one or more other MS, national authorities must have regard to the general principles set out in this Article | Article 189 of SI No. 2 | HMT |
| Article 88(1) | Group level RAs to establish resolution colleges to carry out the tasks referred to in Articles 12, 13, 16, 18, 45, 91 and 92, and, where appropriate, to ensure cooperation and coordination with third-country authorities | Articles 190 and 191 of SI No. 2 | HMT |
| Article 88(2) | Required membership of the resolution college | Article 192(1) of SI No. 2 | HMT |
| Article 88(3) | RAs of third countries where a parent undertaking or institution established in the Union has a subsidiary or significant branch may be invited to participate in the resolution college | Article 192(3) of SI No. 2 | HMT |
| Article 88(4) | EBA must not have any voting rights to the extent that any voting takes place within the framework of resolution colleges | Article 192(2) of SI No.2 | HMT |
| Article 88(5) | The group level RA is the chair of the resolution college and in that capacity must carry out the tasks set out in this paragraph | Article 193 of SI No. 2 | HMT |
| Article 88(6) | No obligation to establish a resolution colleges if other existing groups or colleges perform the same functions and carry out the same tasks | Article 194 of SI No. 2 | HMT |
| Article 89(1) | RAs to establish a European resolution college where a | Articles 195 and 197(1) of SI No. 2 | HMT |

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| | third country institution or parent undertaking has Union subsidiaries or significant branches in two or more MS | | |
| Article 89(2) and (5) | The European resolution college must perform the functions and carry out the tasks specified in Article 88 with respect to the subsidiary institutions and relevant branches | Article 196(2) and (3) of SI No. 2 | HMT |
| Article 89(3) | The European resolution college must be chaired by the RA of the MS where the CS is located for the purposes of consolidated supervision under Directive 2013/36/EU | Article 196(3) and (4) of SI No. 2 | HMT |
| Article 89(4) | MS may waive the requirement to establish a European resolution college in certain circumstances | Article 198 of SI No. 2 | HMT |
| Article 90 | RAs and CAs to provide one another on request with all the information relevant for the exercise of tasks under this Directive; duty on RA to share information with the ministry where it may have implications for public funds | Existing provisions in sections 3D, 3Q of FSMA; sections 58 to 67 of FSA12; and article 188 of SI No. 2 | HMT |
| Article 91(1) | Where an RA decides that a subsidiary in a group meets the conditions in Article 32 or 33, that RA must notify the group level RA, the CS and members of the resolution college for the group in question | Articles 199 – 207 of SI No. 2 | HMT |
| Article 91(2) | On receiving a notification, the group level RA must assess the likely impact of the resolution actions or other measures on the group and on group entities in other MS | Article 200 of SI No. 2 | HMT |
| Article 91(3) | If the group level RA assess that the resolution actions or other measures notified would not make it likely that the Article 32 or 33 conditions would be satisfied in relation to a group entity in another MS, the RA responsible for | Articles 200(2) and 204(2) of SI No. 2 | HMT |

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| | that institution or entity may take the resolution action or other measures notified pursuant to paragraph 1 | | |
| Article 91(4) | If the group level RA assesses that the resolution actions or other measures notified would make it likely that the Article 32 or 33 conditions would be satisfied in relation to a group entity in another MS, the group level RA must propose a group resolution scheme and submit it to the resolution college | Articles 200(3) of SI No. 2 | HMT |
| Article 91(5) | Required procedure to be followed in the absence of a group level RA assessment under paragraph 3 or 4 | Article 204(2) and 204(3) of SI No. 2 | HMT |
| Article 91(6) | Required content of a group resolution scheme under paragraph 4 | Article 189 of SI No. 2 | HMT |
| Article 91(7) | The group resolution scheme must take the form of a joint decision of the group level RAs and the RAs responsible for subsidiaries covered by the scheme. An RA may request the assistance of the EBA in reaching a joint decision | Articles 201, 202 of SI No. 2 | HMT |
| Article 91(8) | If any RA disagrees with the group resolution scheme it must notify the group level RA and other RAs covered by the scheme | Article 205 of SI No. 2 | HMT |
| Article 91(9) | The RAs that do not disagree pursuant to paragraph 8 may reach a joint decision on a group resolution scheme covering group entities in their MS | Article 201 of SI No. 2 | HMT |
| Article 91(10) | Joint decisions under paragraph 7, 8 and 9 must be recognised as conclusive and applied by the RAs in the MS concerned | Chapters 4 and 5 of Part 16 of SI No. 2 | HMT |
| Article 91(11) | Authorities to perform all actions under this article without delay, and with due regard to the urgency of the situation | Chapters 4 and 5 of Part 16 of SI No. 2 | HMT |

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| Article 91(12) | Where a group resolution scheme is not implemented and RAs take resolution actions in relation to any group entity, those RAs must cooperate closely within the resolution college with a view to achieving a coordinated resolution strategy for all the group entities that are failing or likely to fail | Article 206(3) and 214(3) of SI No. 2 | HMT |
| Article 91(13) | RAs that take any resolution action in relation to any group entity must inform the members of the resolution college regularly and fully about those actions or measures and their on-going process | Article 206(4) of SI No. 2 | HMT |
| Article 92 | Where a group level RA decides that a Union parent undertaking meets the conditions in Article 32 or 33, that RA must notify the group level RA, the CS and members of the resolution college for the group in question | Articles 208 to 215 of SI No. 2 | HMT |
| Title VI – relations with third countries | | | |
| Article 94(2), (3) | MS to recognise a third country resolution proceeding with in a European resolution college or on its own; duty to consider interests of other MS | Articles 195 – 197 of SI No. 2 on the functioning of the European Resolution College and duty to consider interests of other MS; new section 89H of BA09 (inserted by article 103 of SI No. 1) imposes the duty to recognise the decision unless there is a right to refuse. | |
| Article 94(4) | MS to ensure that RAs are, as a minimum, empowered to take the resolution action specified in this Article | New sections 89H to 89J of BA09 (inserted by article 103 of SI No. 1); new section 81ZBA of BA09 (inserted by article 91 of SI No. 1) plus extensions of | HMT |

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| | | existing powers to sections 81B and 81BA of BA09 to act on group companies in the UK in relation to a third country proceeding made in articles 90, 92, 94, 95 of SI No. 1 plus new section 81ZBA of BA09 (inserted by article 91 of SI No. 1); termination rights treated in new section 48Z BA09 (inserted by article 62 of SI No. 1) | |
| Article 94(5) | | The powers listed for Article 94(4) above apply to parent undertaking because they are 'banking group companies' by virtue of amendments to SI 2014/1831 inserted by article 127 of SI No. 1 . | |
| Article 94(6) | Recognition of third country proceedings is without prejudice to insolvency proceedings | New section 89H(5) of BA09 inserted by article 103 of SI No. 1 | |
| Article 95 | The RA may refuse to recognise or to enforce third country resolution proceedings if it considers that the conditions set out in this Article are met | New section 89H(4) of BA09 (inserted by article 103 of SI No. 1) | HMT |
| Article 96 | 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 | Existing provisions in sections 55L and 55M of FSMA (which give the supervisors wide powers, including to require that the branch turn into a subsidiary); Part 1, BA09 | HMT |
| Article 97 | CAs and RAs to conclude, where appropriate, non-binding cooperation arrangements with relevant | Article 224 of SI No. 2 | HMT |

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| | third countries in accordance with this Article. MS to notify the EBA of any cooperation arrangements that RAs and CAs have concluded in accordance with this Article | | |
| Article 98 | MS to ensure that RAs, CAs and competent ministries exchange confidential information, including recovery plans, with relevant third countries only if the conditions set out in this Article are met | SI 2001/2188 (as amended by article 226 of, and paragraph 8 of Schedule 3 to, SI No. 2) | HMT |
| Title VII – Financing arrangements | | | |
| Article 100 | MS to establish one or more financing arrangements for the purpose of ensuring the effective application by the RA of the resolution tools and powers. MS to ensure that the use of the financing arrangements may be triggered by a designated public authority or authority entrusted with public administrative powers | Existing provisions in BA09 - section 78 (as amended by article 84 of SI No. 1), section 89A (as amended by article 100 of SI No. 1), new section 78A inserted by article 85 of SI No. 1 ; existing sections 228 to 230 BA 09; existing provision in; and revised SRR Code | HMT |
| Article 100(6) | MS may fulfil obligations to raise contributions not held through a fund | Schedule 19 to FA11 | HMT |
| Article 101 | RAs may use the financing arrangements established in accordance with Article 110 only to the extent necessary to ensure the effective application of the resolution tools for the purposes set out in this Article | Existing provisions in BA09 - section 78 (as amended by article 84 of SI No. 1); new section 78A inserted by article 85 of SI No. 1 ; section 89A (as amended by article 101 of SI No. 1), existing sections 228 to 230 BA 09; revised SRR Code | HMT |
| Article 102 | MS to ensure that by 31 December 2024, the available financial means of their financing arrangements reach a target level of at least 1% of the amount of covered deposits | Existing provision in Schedule 19 to FA11 | HMT |

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| | of all the institutions authorised in their territory | | |
| Article 103 | In order to reach the target level specified in Article 102, MS to ensure that contributions are raised at least annually from the institutions authorised in their territory, including Union branches | Existing provision in Schedule 19 to FA11, enforcement as per ordinary levies of direct taxes | HMT |
| Article 104 | Where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, MS to ensure that extraordinary ex-post contributions are raised from the institutions authorised in their territory, in order to cover the additional amounts | Existing provision in Schedule 19 to FA11 | HMT |
| Article 105 | MS to ensure that financing arrangements under their jurisdiction are enabled to contract alternative funding means in the event that the amounts raised in accordance with Article 103 are not sufficient | Existing provision in section 12 of the National Loans Act 1968. | HMT |
| Article 106 | MS to ensure that financing arrangements under their jurisdiction may make a request to borrow from all other financing arrangements within their jurisdiction in the event that the amounts raised or available under Article 103, 104 or 105 are not immediately accessible on reasonable terms | For raising money: existing provision in section 12 of the National Loans Act 1968. For lending money: common law powers with primary legislation (for example, Loans to Ireland Act 2010). | HMT |
| Article 107 | MS to ensure the mutualisation of national financing arrangements in the case of a group resolution | Existing provisions in sections 228 and 229 of BA09; article 189(e)(ii) of SI No 2 ; and revised SRR Code. | HMT |
| Article 108 | MS to ensure the ranking of certain deposits in national law governing normal insolvency proceedings | SI No. 3 | HMT |

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| Article 109 | MS to ensure that, where the RAs take resolution action, and provided that that action ensures that depositors continue to have access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable in the circumstances set out in this Article | Existing provisions in sections 214B, 214C and 214D of FSMA; and revised SRR Code | HMT |
| Title VIII – Penalties | | | |
| Article 110 | MS to lay down rules on administrative penalties and other administrative measures applicable where the national provisions transposing this Directive has not been complied with, and to ensure they are implemented | New sections 83ZA to 83ZR and sections 83ZT to 83ZX of BA09 (inserted by article 97 of SI No. 1) | HMT |
| Article 111 | MS to ensure that their laws, regulations and administrative provisions provide for penalties and other administrative measures at least in respect to infringements of specific provisions in the Directive | New sections 83ZQ to 83ZR and sections 83ZT to 83ZX of BA09 (inserted by article 97 of SI No. 1); and existing provisions in FSMA - section 192K (as amended by article 121 of SI No. 1) and 192L (as amended by article 122 of SI No. 1) | HMT |
| Article 112 | MS to ensure that RAs and CAs publish on their official website any administrative penalties imposed by them for infringing the national provisions transposing this Directive | New section 83ZY of BA09 (inserted by article 97 of SI No. 1) | HMT |
| Article 113 | RAs and CAs to inform the EBA of all administrative penalties imposed by them under Article 111 | Article 225 of SI No. 2 | HMT |
| Article 114 | MS to ensure that when determining the type of administrative penalties or other administrative measures and the level of administrative fines, the CAs and RAs take into account all relevant circumstances, including | New section 83ZS of BA09 (inserted by article 97 of SI No. 1) | HMT |

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| | where appropriate those set out in this Article | | |
| Title IX – Powers of Execution | | | |
| Article 115 | Power to adopt delegated acts conferred on the European Commission | No implementation is required by MS | n/a |
| Title X – Amendments to other Directives | | | |
| Article 116 | Amendment to Directive 82/891/EC | No implementation is required | n/a |
| Article 117 | Amendment to Directive 2001/24/EC | The Credit Institutions (Reorganisation and Winding up) Regulations 2004 (SI 2004/1045) as amended by article 226 of, and Part 3 of Schedule 3, to SI No. 2 | HMT |
| Article 118 | Amendment to Directive 2002/47/EC | The Financial Collateral Arrangements (No. 2) Regulations 2003/3226, as amended by article 226 of, and Part 3 of Schedule 3, to SI No. 2 | HMT |
| Article 119 | Amendment to Directive 2004/25/EC | Article 119 of SI No. 2 | HMT |
| Article 120 | Amendment to Directive 2005/56/EC | Article 220 of, and paragraph 20 of Schedule 4, to SI No. 2 | HMT |
| Article 121 | Amendment to Directive 2007/36/EC | Article 220 of, and Schedule 4 to, SI No. 2 | HMT |
| Article 122 | Amendment to Directive 2011/35/EU | Article 220 of, and Schedule 4 to, SI No. 2 | HMT |
| Article 123 | Amendment to Directive 2012/30/EU | Article 220 of, and Schedule 4 to, SI No. 2 | HMT |
| Article 124 | Amendment to Directive 2013/36/EU | Article 226 of, and paragraph 11 of Schedule 3 to, SI No. 2 | HMT |
| Article 125 | Amendment to the EBA Regulation | No implementation is required by MS | n/a |
| Article 126 | Amendment to Regulation (EU) No 648/2012 | No implementation is required by MS | n/a |
| Title XI – Final Provisions | | | |

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| Article 127 | EBA to create a permanent resolution committee pursuant to Article 41 of Regulation (EU) 1093/2010 | No implementation is required by MS | n/a |
| Article 128 | Requirement for CAs and RAs to cooperate with the EBA for the purposes of this Directive | No implementation is required by MS | n/a |
| Article 129 | Requirement for European Commission to review the implementation of this Directive by 1 June 2018 | No implementation is required by MS | n/a |
| Article 130 | MS to apply measures in Chapter IV of Title IV (in relation to the bail-in resolution tool) by 1 January 2016, and all other measures in this Directive by 1 January 2015 | As set out in this Transposition Note | HMT |
| Article 131 | This Directive shall enter into force on the 20 th day following that of its publication in the Official Journal; except for article 124 which shall enter into force on 1 January 2015 | No implementation is required by MS | n/a |
| Article 132 | This Directive is addressed to MS | No implementation is required by MS | n/a |