
STATUTORY INSTRUMENTS

2014 No. 3348

The Bank Recovery and Resolution (No. 2) Order 2014

PART 6

Assessment of resolvability and removal of impediments to resolvability

CHAPTER 4

Removal of impediments to resolvability of group entities where the PRA or FCA is the consolidating supervisor

Application and interpretation of Chapter 4

68.—(1) This Chapter applies where, in relation to a relevant group—

- (a) the PRA or FCA is the consolidating supervisor; and
- (b) the Bank, having made an assessment of group resolvability in accordance with Chapter 2, has identified substantive impediments to the resolvability of a group entity (“the impediments”).

(2) In this Chapter—

“group entity” means the [^{F1}UK parent undertaking] or a subsidiary within the relevant group which is—

- (a) an institution
- (b) a financial institution; or
- (c) a parent undertaking of an institution which is ^{F2}...—
 - (i) ^{F2}...
 - (ii) a qualifying parent undertaking;

“measures for structural change” means—

- (a) measures for changing the legal or operational structure of a group entity in order to ensure, through the application of resolution tools and the exercise of resolution powers, that critical functions can be separated, legally or operationally, from the performance of other functions;
- (b) measures for establishing [^{F3}a UK] parent financial holding company; or
- (c) where an institution is a subsidiary of a relevant MAHC, measures for establishing a financial holding company as a parent undertaking of the institution for the purpose of—
 - (i) facilitating the application of resolution tools and the exercise of resolution powers to achieve any of the resolution objectives; or
 - (ii) ensuring that applying the resolution tools and exercising the resolution powers does not have an adverse effect on the non-financial part of the group of the relevant MAHC;

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“the plan” means the group resolution plan being drawn up for the relevant group (or the group resolution plan which has been adopted for the group and is being reviewed);

“pre-resolution powers” has the same meaning as in Chapter 3;

“qualifying parent undertaking” has the meaning given by section 192B of FSMA ^{F4} (meaning of “qualifying parent undertaking”); and

“remedial measures” means measures to address or remove the impediments.

[^{F5}“response period” means—

(a) in a case [^{F6}where the institution does not, as applicable, meet the requirements referred to in Articles 92a and 494 of the capital requirements regulation or the minimum requirement for own funds and eligible liabilities in accordance with section 3A(4B) of the Banking Act], two weeks beginning with the date on which the institution received the notice; and

(b) in any other case, four months beginning with that date.]

(3) “Relevant MAHC”, in the definition of “measures for structural change”, means a mixed activity holding company which has at least one subsidiary which—

(a) is an institution; and

(b) is not a subsidiary of a financial holding company which is also a subsidiary of the mixed activity holding company.

F1 Words in art. 68(2) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1394), reg. 1(2), **Sch. 3 para. 41(2)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F2 Words in art. 68(2) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1394), reg. 1(2), **Sch. 3 para. 41(2)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F3 Words in art. 68(2) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1394), reg. 1(2), **Sch. 3 para. 41(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F4 Section 192B was inserted by the Financial Services Act 2012, section 27, which inserted Part 12A of FSMA.

F5 Words in art. 68(2) inserted (28.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1350), regs. 1(2), **39**

F6 Words in art. 68 substituted (31.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1350), regs. 1(3), **74(4)**

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Order power to apply (with modifications) conferred by [2023 c. 29 Sch. 11 para. 165](#)
- Order power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Order revoked by [2023 c. 29 Sch. 1 Pt. 2](#)