
STATUTORY INSTRUMENTS

2014 No. 3348

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

PART 7

Intra-group financial support

CHAPTER 1

Authorisation of agreement for group financial support
where the PRA or FCA is the consolidating supervisor

Application and interpretation of Chapter 1

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

- (a) the PRA or FCA is the consolidating supervisor; and
- (b) the PRA or FCA (or each of them) receives from the [^{F1}UK] parent undertaking an application for authorisation of a group financial support agreement (“the application”).

(2) In this Chapter—

^{F2}
...

[^{F3}“conditions for financial support” means the following conditions—

- (a) there is a reasonable prospect that the financial support provided significantly redresses the financial difficulties of the group entity receiving the financial support;
- (b) the provision of financial support has the objective of preserving or restoring the financial stability of the group as a whole or any of the entities of the group and is in the interests of the group entity providing the financial support;
- (c) the financial support is provided on terms, including consideration, in accordance with Article 19.7 of the recovery and resolution directive;
- (d) there is a reasonable prospect, on the basis of the information available to the management body of the group entity providing financial support at the time when the decision to grant financial support is taken, that the consideration for the support will be paid and, if the financial support is given in the form of a loan, that the loan will be reimbursed, by the group entity receiving the financial support;
- (e) if the financial support is given in the form of a guarantee or any form of security and the guarantee or the security is enforced, the condition referred to in paragraph (d) shall apply to the liability arising for the recipient;
- (f) the provision of the financial support would not jeopardise the liquidity or solvency of the group entity providing the financial support;
- (g) the provision of the financial support would not create a threat to financial stability in the United Kingdom;
- (h) the group entity providing the financial support complies, at the time the financial support is provided, with—

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- (i) the requirements relating to capital or liquidity imposed by or under legislation upon which the United Kingdom relied immediately before IP completion day to meet its obligations with respect to the capital requirements directive; and
- (ii) the requirements imposed by or under legislation upon which the United Kingdom relied immediately before IP completion day to meet its obligations with respect to Article 104.2 of the capital requirements directive,
and the provision of the financial support shall not cause the group entity to infringe those requirements, unless the group entity is authorised by the appropriate regulator on an individual basis;
- (i) the provision of the financial support would not undermine the resolvability of the group entity providing the financial support.]

“financial support” includes—

- (a) a loan, a guarantee, the provision of assets for use as collateral or any combination of these forms of support; and
- (b) provision for support (in any form) in one or more transactions or in a transaction entered into by the group institution which is the intended recipient of the support and any other person;

“group entity” means a relevant parent undertaking or group subsidiary which proposes to enter into the group financial support agreement;

“group financial support agreement” means an agreement—

- (a) which is proposed for the provision of financial support to a group institution which, at any time after the agreement has been concluded, meets the conditions for early intervention; and
- (b) the parties to which include a relevant parent undertaking and one or more group subsidiaries set up in any country ^[F4], other than the United Kingdom, in which the relevant parent undertaking is set up];

“group institution” means a group entity which is an institution;

“group subsidiary” means an undertaking which is—

- (a) a subsidiary of a relevant parent undertaking; and
- (b) an institution or financial institution;

“relevant competent authority” means a competent authority, other than the consolidating supervisor, which has authorised a group entity; and

“relevant parent undertaking” means a ^[F5]UK parent institution, a financial holding company, a mixed financial holding company or a mixed activity holding company.

^[F6](2A) The PRA and the FCA may each make technical standards relating to conditions (a), (c), (f) and (i) of the definition of “conditions for financial support” provided in paragraph (2) in so far as those conditions apply to a group financial support agreement submitted to it by a UK parent undertaking.]

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|-----------|--|
| F1 | Word in art. 83(1)(b) 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. 47(2) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F2 | Words in art. 83(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. 47(3)(a) ; 2020 c. 1, Sch. 5 para. 1(1) |

- F3** Words in art. 83(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. 47(3)(b)** (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(c)(ii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F4** Words in art. 83(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. 47(3)(c)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F5** Word in art. 83(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. 47(3)(d)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Art. 83(2A) inserted (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. 47(4)**; 2020 c. 1, **Sch. 5 para. 1(1)**

Review of group financial support agreement and decision on authorisation

84.—(1) The appropriate regulator must review the group financial support agreement jointly with the relevant competent [^{F7}authority].

(2) The purpose of the review is to determine whether—

(a) the terms of the agreement are compatible with the conditions for financial support, including whether they make provision to ensure that financial support would be given in accordance with those conditions; and

(b) any group institution already meets the conditions for early intervention.

(3) The matter referred to in paragraph (2)(a) is to be determined having regard to the potential impact of the agreement, if it is concluded, on the financial stability of [^{F8}the United Kingdom].

(4) The appropriate regulator must refuse the application and prohibit the conclusion of the group financial support agreement if it is determined on review that—

(a) the terms of the agreement are not compatible with the conditions for financial support; or

(b) a group institution already meets the conditions for early intervention.

(5) The appropriate regulator must otherwise grant the application.

- F7** Word in art. 84(1) 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. 48(2)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F8** Words in art. 84(3) 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. 48(3)**; 2020 c. 1, **Sch. 5 para. 1(1)**

Duty to transmit a copy of application

85.—(1) The appropriate regulator must send a copy of the application or, where paragraph (2) has effect in relation to any information, of the application without that information, without delay to [^{F9}any] relevant competent authority.

(2) This article does not require any information contained in the application to be disclosed if its disclosure would be contrary to section 348 of FSMA.

- F9** Word in art. 85(1) 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. 49**; 2020 c. 1, **Sch. 5 para. 1(1)**

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Joint decision with other competent authorities

^{F10}86.

F10 Art. 86 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. 50**; 2020 c. 1, Sch. 5 para. 1(1)

References to EBA

^{F11}87.

F11 Art. 87 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. 50**; 2020 c. 1, Sch. 5 para. 1(1)

Requesting the assistance of EBA

^{F12}88.

F12 Art. 88 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. 50**; 2020 c. 1, Sch. 5 para. 1(1)

Duty to transmit a copy of authorised agreement

89. The appropriate regulator must send a copy of the group financial support agreement, if it is authorised, to the Bank ^{F13}....

F13 Words in art. 89 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. 51**; 2020 c. 1, Sch. 5 para. 1(1)

Amendment of authorised agreement

90.—(1) This article applies where—

- (a) the parties to an agreement authorised under this Chapter wish to amend the agreement; and
- (b) rules made by the PRA or FCA under FSMA require the amendment to be authorised before it is made.

(2) If the [^{F14}UK] parent undertaking submits to the appropriate regulator an application for authorisation of the amendment (“the amendment application”), the appropriate regulator must treat the amendment application as if it were an application for authorisation of a group financial support agreement.

(3) Articles 84 to 89 apply for that purpose, but have effect in relation to the amendment application as if—

- (a) each reference to a group financial support agreement were a reference to the amendment set out in the amendment application; and

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(b) each reference to the application were a reference to the amendment application.

F14 Word in [art. 90\(2\)](#) 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. 52(2)**; 2020 c. 1, Sch. 5 para. 1(1)

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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](#)