

SCHEDULE 3

Amendments

PART 3

Amendments of secondary legislation

Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

8.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 ^{F1} are amended as follows.

(2) In regulation 2 ^{F2}—

(a) in the definition of “single market restrictions” after paragraph (l) add—

“(m) articles 84 and 98 of the recovery and resolution directive;”; and

(b) in the appropriate place insert—

““EEA resolution authority” means an authority designated by another EEA state in accordance with Article 3 of the recovery and resolution directive;”;

““foreign resolution authority” means an authority in a territory which is not, and does not form part of, an EEA state which exercises functions in relation to third-country resolution action (within the meaning of section 89H of the Banking Act 2009), including planning for such action, corresponding to one or more functions exercisable by an EU resolution authority pursuant to the recovery and resolution directive;”;

““recovery and resolution directive” means Directive 2014/59/EU of the European Parliament and of the Council of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms; ”; ^{F3}

““recovery and resolution directive information” means confidential information received by—

(a) the Bank of England in the course of discharging its functions as a resolution authority under the recovery and resolution directive;

(b) the FCA or PRA in the course of discharging their functions as competent authorities under the recovery and resolution directive;

(c) a person appointed by the Bank of England under section 62B (resolution administrator) of the Banking Act 2009 ^{F4} to act as resolution administrator in the course of discharging that person's functions as such;”.

(3) In regulation 8 ^{F5}—

(a) at the end of paragraph (b) omit “and”; and

(b) at the end of paragraph (c) insert—

“; and

(d) recovery and resolution directive information.”.

(4) In regulation 9 ^{F6}—

(a) in paragraph (1), for “and (4)” substitute “(4) and (5) ”;

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- (b) in paragraph (2) for “the condition in paragraph (2ZA) is met or the conditions in (2B) are met” substitute “ the conditions in paragraphs (2ZA), (2B) or in paragraph (2C) are met ”; and
- (c) after paragraph (2B) insert—

“(2C) The condition in this paragraph is that the conditions in Article 98 of the recovery and resolution directive for the exchange of information with authorities in a third country are met.”; and
- (d) after paragraph (4), insert—

“(5) Paragraph (1) does not permit the disclosure of recovery and resolution directive information to any person unless the assessment required in regulation 10B has been carried out.”.
- (5) After regulation 10, insert—

“Disclosure of recovery and resolution directive information

10A.—(1) The Bank of England may disclose recovery and resolution directive information to any person for the purpose of enabling the Bank to prepare for and carry out the functions given to it under—

- (a) Parts 1, 2 and 3 of the Banking Act 2009, or
- (b) the Investment Bank Special Administration Regulations 2011 ^{F7},

provided that any such disclosure is made subject to the conditions in paragraph (2), and following the assessment required in regulation 10B.

(2) A disclosure made by the Bank of England under paragraph (1) must be made subject to—

- (a) a requirement that the information disclosed is kept confidential and not disclosed to any other person without the consent of the Bank; and
- (b) restrictions imposed by the Bank as to the way in which the information may be used.

(3) A resolution administrator appointed under section 62B of the Banking Act 2009 may disclose recovery and resolution directive information to a regulator.

Assessment of effects of disclosure

10B.—(1) Before any disclosure is made of recovery and resolution directive information the person disclosing that information must—

- (a) assess the possible effects of disclosing the information in question on—
 - (i) the public interest in relation to financial, monetary or economic policy;
 - (ii) the commercial interests of natural and legal persons;
 - (iii) the purpose of any investigation, inspection or audit to which the information is relevant; and
- (b) where the information in question relates to the recovery plan or resolution plan of any undertaking, assess the effects of the disclosure of any part of that recovery plan or resolution plan.

(2) In this regulation—

“recovery plan” means a recovery plan drawn up and maintained in accordance with Article 5 of the recovery and resolution directive or a group recovery plan drawn up and maintained in accordance with Article 7 of that directive; and

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“resolution plan” means a resolution plan drawn up in accordance with Article 10 of the recovery and resolution directive or a group recovery plan drawn up in accordance with Articles 12 and 13 of that directive.”.

(6) In regulation 11 ^{F8} after paragraph (f) insert—

“(g) recovery and resolution directive information.”.

(7) In Schedule 1 ^{F9}—

(a) in Part 1—

- (i) after the entry beginning “The Bank of England” in the first column insert “ The Bank of England ”, and in the second column insert “ Its functions under Parts 1, 2 and 3 of the Banking Act 2009 and under the Investment Bank Special Administration Regulations 2011 ^{F10} ”;
- (ii) in the entry beginning “An official receiver appointed under section 399 of the Insolvency Act 1986”, in the second column after paragraph (ii) insert “ or (iii) banking group companies (as defined in section 81D of the Banking Act 2009) ^{F11} ”;
- (iii) after the entry beginning “An official receiver appointed under section 399 of the Insolvency Act 1986” in the first column insert “ A person appointed in judicial or administrative proceedings in an EEA State or a State which is not an EEA State, pursuant to a law relating to insolvency, to administer the reorganisation or the liquidation of a debtor's assets or affairs ”, and in the second column insert “ That person's functions as such ”;
- (iv) in the entry beginning “An auditor of an authorised person”, in the first column after “authorised person” insert “ or banking group company (as defined in section 81D of the Banking Act 2009) ”;
- (v) after the entry beginning “An auditor of an authorised person” in the first column insert “ A person appointed to carry out a statutory audit of a company within the meaning of Article 2.1 of Directive [2006/43/EC](#) of the European Parliament and of the Council of 17th May 2006 on statutory audits and consolidated accounts ^{F12} ”, and in the second column insert “ That person's functions as such ”;

(b) in Part 2—

- (i) after the entry for “An EEA regulatory authority” in the first column insert “ An EEA resolution authority ”, and in the second column insert “ Its functions under the recovery and resolution directive ”;
- (ii) after the entry for “An EEA resolution authority” (inserted by sub-paragraph (i)) in the first column) insert “ An authority responsible for maintaining the stability of the financial system in an EEA State through macro-prudential regulation ”, and in the second column insert “ Its functions as such ”; and

(c) in Part 3 after the entry for “A non-EEA regulatory authority” in the first column insert “ A foreign resolution authority ”, and in the second column insert “ Its functions as such ”.

F1 [S.I. 2001/2188](#).

F2 Amended by [S.I. 2003/693](#), 2003/2066, 2004/1862, 2004/3379, 2006/3413, 2010/2628, 2012/916, 2012/917, 2012/2554, 2013/472 and 2013/1773.

F3 OJ No. L 173, 12.6.2014, p. 190.

F4 [Section 62B](#) was inserted by [S.I. 2014/3329](#).

F5 [Regulation 8](#) was amended by [S.I. 2003/504](#), 2006/3413 and 2012/916.

F6 [Regulation 9](#) was amended by [S.I. 2003/693](#), 2004/3379, 2006/3221, 2006/3413, 2010/2628, 2011/1613, 2012/916, 2013/472, 2013/1773 and [S.I. 2013/3115](#).

F7 [S.I. No. 2011/245](#).

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- F8** [Regulation 11](#) was amended by [S.I. 2003/2066](#), 2006/3413, 2011/1613, 2012/916 and 2013/504.
- F9** [Schedule 1](#) was amended by [S.I. 2001/3437](#), 2001/3624, 2003/2174, 2003/2817, 2005/3071, 2006/3413, 2011/1265, 2012/916, 2013/472, 2013/3115, 2014/549, 2014/883 and 2014/2879.
- F10** [S.I. 2011/245](#).
- F11** [2009 c. 1](#). Section 81D was inserted by the [Financial Services Act 2012 \(c. 21\)](#), [s.100](#).
- F12** OJ No. L 157, 9.6.2006, p. 87.

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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](#)