
STATUTORY INSTRUMENTS

2016 No. 1239

The Bank Recovery and Resolution Order 2016

PART 5

Amendments of secondary legislation

Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009

36.—(1) The Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009 ^{F1} is amended as follows.

(2) In article 1(3)—

(a) in the definition of “banking institution”—

(i) at the end of sub-paragraph (d), omit “or”;

(ii) after sub-paragraph (e), insert—

“or

(f) a third-country institution (within the meaning of section 89JA of the Act (resolution of UK branches of third-country institutions) ^{F2}).”;

(b) in the definition of “continuity powers”, omit “(including that subsection as applied by sections 65(2) and 83(2)(f) of the Act)” and “(including that subsection as applied by sections 68(2) and 83(2)(f) of the Act)”.

(c) in the definition of “relevant authority”, in sub-paragraph (a)—

(i) for “or 5” substitute “, 5 or 6”;

(ii) for “and (4B)” substitute “, (4B) and (4C)”;

(d) after paragraph (4), insert—

“(5) References in this Order to sections of the Banking Act 2009 include, as the context requires, references to those provisions as applied with or without modifications by that Act, as that Act has effect on the day on which the Bank Recovery and Resolution Order 2016 comes into force.”

(3) In article 2—

(a) in paragraph (4)—

(i) in sub-paragraph (a), omit “(including that section as applied by section 82 of the Act)”;

(ii) in sub-paragraph (ii), omit “(including those sections as applied and modified by section 83 of the Act)”;

(b) after paragraph (4B), insert—

“(4C) Case 6 is where—

(a) the Bank has made a share transfer instrument in accordance with section 12(2) of the Act; and

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- (b) a property transfer instrument has been made by the Bank in accordance with section 44D(2) (bridge bank: supplemental property transfer powers) ^{F3} or section 44E(2) (bridge bank: supplemental reverse property transfer powers) of the Act which is a partial property transfer.”

(4) After article 5 ^{F4}, insert—

“Secured liabilities: eligible deposits

5A.—(1) This article applies where the property or rights against which a liability is secured consist of, or include, eligible deposits.

(2) Article 5 does not apply if the Bank of England considers that, in order to ensure that eligible deposits are available to depositors, it is necessary—

- (a) to transfer the eligible deposits without the other property or rights against which the liability is secured, or without the liability which they are securing, or
- (b) to transfer the other property or rights against which the liability is secured, or the liability, without the eligible deposits.

(3) For the purposes of this article, “eligible deposit” means a deposit in respect of which the person, or any of the persons, to whom it is owed would be eligible for compensation under the Financial Services Compensation Scheme.”

(5) In article 8 ^{F5}—

- (a) in paragraph (1)(a), for “or 44A ^{F6}” substitute “ , 44A or 44E ”;
- (b) in paragraph (4)(a) for “or 44A” substitute “ , 44A or 44E ”.

(6) In article 12(6), for “or 44A” substitute “ , 44A or 44E ”.

F1 [S.I. 2009/322](#). Article 1 was amended by [S.I. 2009/1826](#); 2013/472; 2013/3115; 2014/1831; 2014/3329.

F2 [Section 89JA](#) is inserted by article 28 of this Order.

F3 [Sections 44D](#) and [44E](#) are inserted by article 13 of this Order.

F4 [Article 5](#) has been amended by [S.I. 2009/1826](#) and [S.I. 2013/472](#).

F5 [Article 8](#) has been amended by [S.I. 2009/1826](#) and [S.I. 2014/3329](#).

F6 [Section 44A](#) was inserted by paragraph 5 of Schedule 2 to the [Financial Services \(Banking Reform\) Act 2013](#) (c.33).

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

- Order power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Order revoked by [2023 c. 29 Sch. 1 Pt. 2](#)