

## STATUTORY INSTRUMENTS

# 2018 No. 1394

## The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018

### Citation and commencement

1.—(1) These Regulations may be cited as the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018.

(2) Subject to paragraph (3), these Regulations come into force on exit day.

(3) The following provisions come into force on the day after the day on which these Regulations are made—

- (a) this regulation,
- (b) in Schedule 1, paragraphs 3(2), 7(2)(b) and 15(3),
- (c) in Schedule 2, paragraph 3(b)(ii),
- (d) in Schedule 3, paragraph 1(29) and
- (e) in Schedule 4, paragraphs 2(2)(c), 4(2)(b) and 7(3).

### Amendments of the Banking Act 2009

2. Schedule 1 amends the Banking Act 2009 <sup>M1</sup>.

#### Commencement Information

**I1** Reg. 2 in force at 31. 12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

**M1** [2009 c.1](#). Relevant amendments were made by [S.I. 2014/3329](#) and [2016/1239](#), the Financial Services Act [2012 c.21](#) and the Financial Services (Banking Reform) Act [2013 c.33](#).

### Amendments of other primary legislation

3. Schedule 2 amends—

- (a) the Insolvency Act 1986 <sup>M2</sup> and
- (b) the Financial Services (Banking Reform) Act 2013 <sup>M3</sup>.

#### Commencement Information

**I2** Reg. 3 in force at 31. 12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**Changes to legislation:** The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 is up to date with all changes known to be in force on or before 15 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

### Marginal Citations

- M2** 1986 c.45. The relevant amendments are mentioned in the footnotes to Schedule 2 to these Regulations.
- M3** 2013 c.33.

## Amendments of the Bank Recovery and Resolution (No.2) Order 2014

4. Schedule 3 amends the Bank Recovery and Resolution (No.2) Order 2014 <sup>M4</sup>.

### Commencement Information

- I3** Reg. 4 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

### Marginal Citations

- M4** S.I. 2014/3348, amended by S.I. 2016/1239 and 2017/80.

## Amendments of other secondary legislation

5. Schedule 4 amends—
- (a) the Banking Act 2009 (Third Party Compensation Arrangements for Partial Property Transfers) Regulations 2009 <sup>M5</sup>,
  - (b) the Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009 <sup>M6</sup>,
  - (c) the Banking Act 2009 (Restriction of Partial Property Transfers) (Recognised Central Counterparties) Order 2014 <sup>M7</sup>,
  - (d) the Banking Act 2009 (Banking Group Companies) Order 2014 <sup>M8</sup>,
  - (e) the Bank Recovery and Resolution Order 2014 <sup>M9</sup>,
  - (f) the Banking Act 2009 (Mandatory Compensation Arrangements Following Bail-in) Regulations 2014 <sup>M10</sup>,
  - (g) the Banking Act 2009 (Restriction of Special Bail-in Provision, etc.) Order 2014 <sup>M11</sup>,
  - (h) the Building Societies (Bail-in) Order 2014 <sup>M12</sup> and
  - (i) the Bank Recovery and Resolution Order 2016 <sup>M13</sup>.

### Commencement Information

- I4** Reg. 5 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

### Marginal Citations

- M5** S.I. 2009/319, amended by S.I. 2014/1830, 3329 and 2016/1239.
- M6** S.I. 2009/322. Relevant amendments were made by S.I. 2009/1826, 2011/1043, 2013/3115 and 2016/1239.
- M7** S.I. 2014/1828.
- M8** S.I. 2014/1831.
- M9** S.I. 2014/3329.
- M10** S.I. 2014/3330; amended by S.I. 2014/3344 and 2016/1239.
- M11** S.I. 2014/3350; amended by S.I. 2016/1239.
- M12** S.I. 2014/3344.

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**M13** [S.I. 2016/1239](#).

## Revocation and amendments of retained direct EU legislation

6. The following instruments are revoked—
- (a) Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements,
  - (b) Commission Delegated Regulation (EU) 2016/1434 of 14 December 2015 correcting Delegated Regulation (EU) 2015/63 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements and
  - (c) Commission Delegated Regulation (EU) 2017/867 of 7 February 2017 on classes of arrangements to be protected in a partial property transfer under Article 76 of Directive 2014/59/EU of the European Parliament and of the Council.

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### Commencement Information

- I5** Reg. 6 in force at 31. 12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

7. The following instruments are amended in accordance with Schedule 5—
- (a) Commission Delegated Regulation (EU) 2016/778 of 2 February 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to the circumstances and conditions under which the payment of extraordinary *ex post* contributions may be partially or entirely deferred, and on the criteria for the determination of the activities, services and operations with regard to critical functions, and for the determination of the business lines and associated services with regard to core business lines and
  - (b) Commission Delegated Regulation (EU) 2016/860 of 4 February 2016 specifying further the circumstances where exclusion from the application of write-down or conversion powers is necessary under Article 44(3) of Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms.

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### Commencement Information

- I6** Reg. 7 in force at 31. 12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

## Transitional provisions: pre-exit EEA resolution action

8.—(1) Section 89H of the Banking Act 2009 (recognition of third-country resolution actions) does not apply in relation to any of the following where taken before [F1IP completion day] under the law of an EEA State other than the United Kingdom—

- (a) the application of a resolution tool within the meaning of Article 2.1(19) of the recovery and resolution directive;

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- (b) the exercise of a resolution power within the meaning of Article 2.1(20) of the recovery and resolution directive;
- (c) any other measure to which Article 66 of the recovery and resolution directive applied immediately before [<sup>F1</sup>IP completion day].

(2) In paragraph (1) “recovery and resolution directive” has the meaning given in section 3(1) of the Banking Act 2009.

(3) Paragraph (1) is without prejudice to the provision made by paragraph 37 of Schedule 8 to the European Union (Withdrawal) Act 2018.

**F1** Words in reg. 8(1) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 10\(a\)](#)

**Commencement Information**

**I7** Reg. 8 in force at 31. 12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

*Craig Whittaker*  
*Mike Freer*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)