

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 11 October 2023. 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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are principally made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c.16) (“the Act”) to address failures of retained European Union law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union (“deficiencies”). In particular, these Regulations address deficiencies under paragraphs (a), (b), (c) and (g) of section 8(2) of the Act and transfer functions under section 8(6) of the Act.

Deficiencies are contained in the legislation upon which the United Kingdom relies before its exit from the European Union to comply with its obligations relating to Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms. The principal instruments are the Banking Act 2009 and the Bank Recovery and Resolution (No.2) Order 2014. These Regulations also address deficiencies in other provisions of primary and secondary legislation that relate to the recovery and resolution of credit institutions and investment firms and in the Financial Services (Banking Reform) Act 2013 and the Banking Act 2009 (Restriction of Partial Property Transfers) (Recognised Central Counterparties) Order 2014. These Regulations also address deficiencies in EU Delegated Regulations adopted by the Commission under powers conferred by Directive 2014/59.

The concept of bank resolution was a response to the financial crisis and was enacted in UK in the Banking Act 2009 (c.1). Powers were conferred on the Bank of England, other financial regulators and the Treasury to prevent insolvency of institutions, having regard to objectives such as maintaining financial stability and minimising reliance on extraordinary public financial support. Directive 2014/59/EU spread this concept across the European Economic Area and, in recognition of the existence of cross-border groups, provided for co-operation between resolution authorities in States in the European Economic Area and with the European Banking Authority. The provisions of these Regulations referred to in regulation 1(3) are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (c.68). These provisions bring up to date certain references in UK legislation to European legislation in advance of exit day. These Regulations refer to the Rulebook made by the Prudential Regulation Authority under the Financial Services and Markets Act 2000 (c.8). The Rulebook is available on <http://www.prarulebook.co.uk> and copies of the rules referred to can be obtained from the Prudential Regulation Authority, 20 Moorgate, London EC2R 6DA, where it is also available for inspection. An impact assessment has not been produced for this instrument, as no significant impact on the costs of business or the voluntary sector is foreseen.

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 11 October 2023. 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.

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Changes and effects yet to be applied to :

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