
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made for the purpose of enabling Part 1 of the Banking Act 2009 (c. 1) to be used effectively in connection with the sale of Silicon Valley Bank UK Limited to HSBC UK Bank plc on 13th March 2023. This Order supplements the Amendments of the Law (Resolution of Silicon Valley Bank UK Limited) Order 2023 (S.I. 2023/319) (First SVB Order).

Article 2 modifies the application of article 11 of the Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014 (S.I. 2014/1960) (the 2014 Order) in relation to Silicon Valley Bank UK Limited and any subsidiary undertakings it may have from time to time. Article 11 of the 2014 Order applies where a UK deposit-taker (or a member of its group) acquires property, rights or liabilities from another institution, or acquires securities issued by another institution, as a result of action being taken under (or in accordance with) the powers in Part 1 of the Banking Act 2009 (the special resolution regime). Such a UK deposit-taker is not a ring-fenced body as a result of this action if it would not otherwise be a ring-fenced body, and if not more than four years have passed since the action under the special resolution regime was taken. The modifications made by this Order have the effect that the four year period in article 11(2)(b) of the 2014 Order is disapplied subject to the conditions specified in article 2(2).

Article 3 makes certain minor amendments to the First SVB Order. Article 3(2) makes certain amendments to defined terms used in that Order. Article 3(3) makes a minor correction to clarify that the modification made by article 3(1) of the First SVB Order applies to each of the provisions of the Financial Services and Markets Act 2000 (c. 8) (FSMA) which are specified. Article 3(4) of this Order amends article 3(2) of the First SVB Order so that the modification it makes to section 138A of FSMA applies in relation to HSBC UK Bank plc and any undertaking in its group (which will include Silicon Valley Bank UK Limited), and so that this modification applies in addition to the current application of section 138A of FSMA, as opposed to replacing it.

A full impact assessment has not been produced for this instrument, as no, or no significant, impact on the private, voluntary or public sector is foreseen.