
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009 (the “Principal Order”).

Article 3 makes a number of changes to the definitions in article 1(3) of the Principal Order.

Articles 3(b), (e) and (h) narrow the scope of paragraphs (c) and (d) of the definition of “excluded rights”. Article 3(b) widens the scope of the activities in respect of which rights and liabilities may be protected under Article 3(1) of the Principal Order. Articles 3(e) and (h) respectively extend the definition of “financial instrument” and “relevant financial instrument”.

Article 3(d) adds a further item to the definition of “excluded rights”, namely rights in respect of transferable securities to the extent that they are not referred to or described in a set-off arrangement, netting arrangement or title transfer financial collateral arrangement.

Article 5 amends article 5 of the Principal Order to provide expressly that the benefit of security may not be transferred without the liability it secures.

Article 6 restricts the provision that can be made in a property instrument under section 34(7)(a) of the Banking Act 2009 in relation to property held on trust.

An Impact Assessment has not been prepared for this Order as one was prepared for the Principal Order⁽¹⁾.

(1) The Impact Assessment is attached to the Explanatory Memorandum for the Principal Order, which is available at the following address: http://www.opsi.gov.uk/si/si2009/em/uksiem_20090322_en.pdf.