
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Bank Recovery and Resolution Order 2014

Amendment of Banking Act 2009 (Third Party Compensation Arrangements for Partial Property Transfers) Regulations 2009

126.—(1) The Banking Act 2009 (Third Party Compensation Arrangements for Partial Property Transfers) Regulations 2009(1) are amended as follows.

(2) In regulation 1(3) (interpretation)—

(a) in the definition of “banking institution”, for paragraph (c) substitute—

“(c) a banking group company;”;

(b) in the definition of “relevant time” insert after paragraph (c)—

“(d) in relation to Case 4 (as specified in regulation 2(4A)), the time at which the resolution instrument made in accordance with section 12A(2) of the Act took effect;

(e) in relation to Case 5 (as specified in regulation 2(4B)), the time at which the third-country instrument made in section 89H(2)(a) or (c) of the Act took effect.”.

(3) In regulation 2 (application of these Regulations)—

(a) in paragraph (2), for “or 12(2)” substitute “, 12(2) or 12ZA(3)”,

(b) in paragraph (3)(a), for “or 12(2)” substitute “, 12(2) or 12ZA(3)”,

(c) after paragraph (4) insert—

“(4A) Case 4 is where—

(a) the Bank has made a resolution instrument (or, where more than one resolution instrument has been made, the first resolution instrument) in accordance with section 12A(2) of the Act (bail-in option), and

(b) a property transfer instrument has been made under section 41A(2) (transfer of property subsequent to resolution instrument), 42 (supplemental instruments) or 44A (bail in: reverse property transfer) of the Act which is a partial property transfer.

(4B) Case 5 is where—

(a) the Bank has made a third-country instrument in accordance with section 89H of the Act (recognition of third-country resolution actions),

(b) either—

(i) that third-country instrument or

(ii) any further third-country instrument made under section 89I(4)(b),

makes provision which would otherwise be made in a property transfer instrument and which, if made in a property transfer instrument, would be a partial property transfer.”.

- (4) In regulation 4—
- (a) the existing text becomes paragraph (1) and, in that paragraph, for subparagraph (a), substitute—
 - “(a) whether all relevant persons, a class of relevant persons or a particular relevant person should be paid compensation; and”;
 - (b) after that paragraph, insert—
 - “(2) In these Regulations, “relevant persons” means the pre-resolution shareholders and creditors (within the meaning of section 60B(3) of the Act(2)).”.
- (5) In regulation 5—
- (a) in paragraphs (2) and (3), for “pre-transfer creditors” substitute “relevant persons”;
 - (b) in paragraph (4) for “pre-transfer creditor”, each time it appears, substitute “relevant person”.
- (6) In regulation 6(b) (mandatory provisions – choice of insolvency process)—
- (a) in subparagraph (ii), for “or 12(2)” substitute “, 12(2) or 12ZA(3)”;
 - (b) insert after subparagraph (iii)—
 - “(iv) in the case of Case 4 (as specified in regulation 2(4A)), the resolution instrument made in accordance with section 12A(2) of the Act (or if more than one instrument has been made, the first resolution instrument made in accordance with that section);
 - (v) in the case of Case 5 (as specified in regulation 2(4B)), the third-country instrument made in accordance with 89H(2)(a) or (c).”.
- (7) In regulation 8—
- (a) for “pre-transfer creditor” wherever it occurs substitute “relevant person”;
 - (b) for “pre-transfer creditors” wherever it occurs substitute “relevant persons”.
- (8) In regulation 9, for “pre-transfer creditor” substitute “relevant person”.

(2) 2009 c.1; section 60B was inserted by paragraph 6 of Schedule 2 to the Financial Services (Banking Reform) Act 2013 (c.33).