
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Bank Recovery and Resolution Order 2014

Interpretation of Part 1 of the Banking Act 2009

5.—(1) Section 3 (interpretation: other expressions)(1) is amended as follows.

(2) The existing text becomes subsection (1) and, in that subsection, at the appropriate places, insert—

““Additional Tier 1 instruments” means capital instruments that meet the conditions laid down in Article 52(1) of the capital requirements regulation (or which qualify as Additional Tier 1 instruments by virtue of Chapter 2 of Title I of Part Ten of that regulation),”;

““the capital requirements regulation” means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26th June 2013 on prudential requirements for credit institutions and investment firms,”(2);

““Common Equity Tier 1 instruments” means capital instruments that meet the conditions laid down in Article 28(1) to (4), 29(1) to (5) or 31(1) of the capital requirements regulation (or which qualify as Common Equity Tier 1 instruments by virtue of Chapter 2 of Title I of Part Ten of that regulation),”;

““critical functions”, subject to subsection (2), means activities, services or operations the discontinuance of which is likely in one or more EEA states—

- (a) to lead to the disruption of services that are essential to the economy, or
- (b) to disrupt financial stability,

due to the size, market share, external and internal connectedness, complexity or cross-border activities of a bank or a group which includes a bank (with particular regard to the substitutability of those activities, services or operations),”;

““eligible liabilities”, of an undertaking, means liabilities and capital instruments that—

- (a) do not qualify as Common Equity Tier 1 instruments, Additional Tier 1 instruments or Tier 2 instruments, of the bank, and
- (b) are not excluded liabilities listed in section 48B(8),”;

““extraordinary public financial support” has the meaning given in Article 2.1(28) of the recovery and resolution directive,”;

““own funds” means own funds as defined in Article 4.1(118) of the capital requirements regulation (read with Title I of Part Ten of that regulation),”;

““own funds requirements” means the requirements laid down in Articles 92 to 98 of the capital requirements regulation (read with Title I of Part Ten of that regulation),”;

““the recovery and resolution directive” means Directive 2014/59/EU of the European Parliament and of the Council of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms,”(3);

(1) 2009 c.1. Section 3 was amended by paragraph 4 of Schedule 17 to the Financial Services Act 2012 (c.21), section 96(2) of the Financial Services Act 2012 (c.21).

(2) OJ No L 176, 27.6.2013, p1. For Corrigenda, see OJ L321, 30.11.2013, p.6.

(3) OJ No L 173, 12.6.2014, p190.

““relevant capital instruments” means Additional Tier 1 instruments and Tier 2 instruments,”;

““Tier 2 instruments” means capital instruments or subordinated loans that meet the conditions laid down in Article 63 of the capital requirements regulation (or which qualify as Tier 2 instruments by virtue of Chapter 2 of Title I of Part Ten of that regulation),”.

(3) After that subsection insert—

“(2) For the purposes of the definition of “critical functions” in subsection (1)—

- (a) a delegated act adopted by virtue of Article 2(2) of the recovery and resolution directive applies as it applies for the purposes of the definition of “critical functions” in Article 2(2) of that directive, and
- (b) “group” means a parent undertaking within the meaning given by Article 4.1(15) (a) of the capital requirements regulation and its subsidiaries within the meaning given by Article 4.1(16) of that regulation.”