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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

**The Bank Recovery and Resolution Order 2014**

**Groups: transfer to asset management vehicle**

91. After section 81B insert—

**“Transfer to asset management vehicle**

**81ZBA.**—(1) The Bank of England may exercise a stabilisation power in respect of a banking group company in accordance with section 12ZA(3) if the following conditions are met.

(2) Condition 1 is that—

- (a) the PRA is satisfied that Condition 1 of the general conditions is met in respect of a bank in the same group and the Bank of England is satisfied that Conditions 2, 3 and 4 of the general conditions are met in respect of that bank, or
- (b) the resolution authority of an EU institution in the same group is satisfied that the conditions for resolution set out in Article 32.1 of the recovery and resolution directive are met in relation to that EU institution, or
- (c) a relevant third-country authority of a third-country institution in the same group is satisfied that any conditions required by the law of the third country to be met before third-country resolution action may be taken are met in relation to that third-country institution.

(2A) For the purposes of determining if a requirement of Condition 1 is met, the PRA, Bank of England, EU resolution authority or relevant third-country authority (as the case may be) may ignore any transfer of losses or capital made between members of the group.

(3) Condition 2 is that the power is exercised in connection with the exercise of one or more stabilisation powers in respect of the banking group company otherwise than for the purposes of the third stabilisation option.

(4) Condition 3 (which does not apply in a financial assistance case) is that the Bank of England is satisfied that the exercise of the power in respect of the banking group company is necessary having regard to the public interest in the advancement of one or more of the special resolution objectives.

(5) Condition 4 (which applies only in a financial assistance case) is that—

- (a) the Treasury have recommended the Bank of England to exercise a stabilisation power on the grounds that it is necessary to protect the public interest, and
- (b) in the Bank of England’s opinion, exercise of the power in respect of the banking group company is an appropriate way to provide that protection.

(6) Condition 5 is that the banking group company is an undertaking incorporated in, or formed under the law of any part of, the United Kingdom.

(7) Condition 6 is that the Bank of England is satisfied that—

- (a) the situation of the market for the assets which it is proposed to transfer by the exercise of the stabilisation power is of such a nature that the liquidation of those

- assets under normal insolvency proceedings could have an adverse effect on one or more financial markets,
- (b) the transfer is necessary to ensure the proper functioning of the banking group company from which the transfer is to be made, or
  - (c) the transfer is necessary to maximise the proceeds available for distribution.
- (8) Before determining whether Conditions 2 and 5 and Condition 3 or 4 (as appropriate) are met, and if so how to react, the Bank of England must consult—
- (a) the PRA,
  - (b) the FCA, and
  - (c) the Treasury.
- (9) For the purposes of this section—
- “financial assistance case” has the meaning given by section 81B(8);
  - “normal insolvency proceedings” has the meaning given in Article 2.1(47) of the recovery and resolution directive (and, in particular, includes the bank insolvency procedure and the bank administration procedure);
  - and the definitions in section 81B(9) apply..”.