

SCHEDULE 1

Amendments of the Banking Act 2009

Bail-in option

19.—(1) Section 48B (special bail-in provision) is amended as follows.

(2) In subsection (8)(g) for the words from “as referred” to the end substitute “within the meaning of rule 3 of Part 152 (remuneration) of the PRA rulebook (other than persons deemed by virtue of rule 3.2 not to be material risk takers and notified to the PRA in accordance with rule 3.2).”

(3) In subsection (8)(j) for the words from “Financial Services Compensation” to the end substitute “FSCS in relation to levies imposed by the scheme manager under section 213(3)(b) of the Financial Services and Markets Act 2000.”

(4) In subsection (10), omit paragraph (b) (and the “and” before it).

(5) In subsection (12)(c)—

- (a) for “micro-enterprises, small enterprises or medium-sized enterprises” substitute “micro, small and medium-sized enterprises”;
- (b) for “an EEA State” substitute “the United Kingdom”.

(6) After subsection (13) insert—

“(13A) The Treasury may by regulations made by statutory instrument make further provision in connection with the exercise of functions under subsection (10) (including provision about further circumstances in which functions under that subsection may or must be exercised).

(13B) Regulations under subsection (13A) may—

- (a) amend subsections (12) and (13) by adding any provision;
- (b) amend or revoke Commission Delegated Regulation (EU) 2016/860;
- (c) amend that Regulation by adding, omitting or varying any provision (pending the revocation of the whole Regulation under paragraph (b)).

(13C) A statutory instrument containing regulations under subsection (13A) may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament.”

(7) In subsection (14)—

(a) at the appropriate place insert—

““core business lines” means business lines and associated services which represent material sources of revenue, profit or franchise value for the bank or a group which includes the bank (or in the case of an instrument made in relation to a resolution company, of the resolution company);”;

(b) for the words from ““micro-enterprise”” to the end substitute—

““micro, small and medium-sized enterprises” means micro, small and medium-sized enterprises as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2003/361/EC.”.

(8) After subsection (14) insert—

“(15) For the purposes of the definition of “core business lines”—

- (a) Article 7 of Commission Delegated Regulation (EU) 2016/778 (criteria relating to the determination of core business lines) applies, and
- (b) “group” has the meaning given by section 3(2)(b).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:
The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 No. 1394

(16) The Treasury may by regulations made by statutory instrument specify criteria for the determination of the business lines and associated services referred to in the definition of “core business lines”.

(17) The power conferred by subsection (16) includes—

(a) power to amend or revoke Article 7 of Commission Delegated Regulation (EU) 2016/778; and

(b) power to amend or repeal subsection (15)(a).

(18) A statutory instrument containing regulations under subsection (16) is subject to annulment in pursuance of a resolution of either House of Parliament.”.