
DRAFT STATUTORY INSTRUMENTS

2020 No.

**The Bank Recovery and Resolution
(Amendment) (EU Exit) Regulations 2020**

PART 4

Amendment of legislation made under the European Union (Withdrawal) Act 2018

CHAPTER 3

Amendment of EU Exit Legislation

**Amendment of the Bank Recovery and Resolution and Miscellaneous Provisions
(Amendment) (EU Exit) Regulations 2018**

75. The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018⁽¹⁾ are amended in accordance with this Chapter.

Amendment of Schedule 1

76.—(1) Schedule 1 (amendments of the Banking Act 2009) is amended in accordance with this regulation.

- (2) In paragraph 10 (mandatory write-down, conversion etc of capital instruments)—
 - (a) in sub-paragraph (4), after “instrument” insert “or liability”;
 - (b) in sub-paragraph (5), in the inserted subsection (4A), after “instrument” insert “or liability”.
- (3) In paragraph 23 (termination rights etc), in sub-paragraph (2), omit paragraph (a).
- (4) In paragraph 42 (third-country resolution actions), after sub-paragraph (3) insert—
 - “(4) In subsection (9A)—
 - (a) in the modified subsection (5), after “United Kingdom and the”, for “third country” substitute “country or territory”;
 - (b) in the modified subsection (6), for ““third-country group company” and “third country”” substitute “and “third-country group company””.

Amendment of Schedule 3

77.—(1) Schedule 3 (amendments of the Bank Recovery and Resolution (No.2) Order 2014) is amended in accordance with this regulation.

- (2) In paragraph 36 (assessment of resolvability of groups), for sub-paragraph (3)(a), substitute—
 - “(a) for “take resolution action in respect of resolution entities or”, substitute “apply the resolution tools or exercise resolution powers in respect of resolution entities, or take”;

⁽¹⁾ [S.I. 2018/1394](#), amended by [S.I. 2019/710](#).

- (3) In paragraph 37 (assessment of resolvability of groups), for sub-paragraph (4)(a), substitute—
- “(a) for “take resolution action in respect of resolution entities or”, substitute “apply the resolution tools or exercise resolution powers in respect of resolution entities, or take”;
- (4) In paragraph 68 (minimum requirement for own funds and eligible liabilities: determination of minimum requirement for an institution)—
- (a) for sub-paragraph (2) substitute—
- “(2) In paragraph (6)—
- (a) in sub-paragraph (d), omit the final “and”;
- (b) at the end of sub-paragraph (e) insert—
- “and
- (f) relevant assessment criteria specified in any Commission Regulation containing regulatory technical standards adopted by the European Commission under Article 45.2 of the recovery and resolution directive, so far as they are retained EU law.”;
- (5) In paragraph 70 (determination of minimum consolidated requirement where the PRA or FCA is the consolidating supervisor)—
- (a) for sub-paragraph (4) substitute—
- “(4) In paragraph (8)(a)—
- (a) in sub-paragraph (iv) omit the final “and”;
- (b) at the end of sub-paragraph (v) insert—
- “and
- (iv) relevant assessment criteria specified in any Commission Regulation containing regulatory technical standards adopted by the European Commission under Article 45.2 of the recovery and resolution directive, so far as they are retained EU law.”;
- (6) In paragraph 76 (determination of minimum requirements for group institutions where the PRA or FCA is the consolidating supervisor), omit sub-paragraph (2).
- (7) In paragraph 118 (information to be contained in a group resolution plan), in sub-paragraph (5), in inserted paragraph 4, for “group entities”, substitute “resolution entities”.

Amendment of Schedule 4

78.—(1) Schedule 4 (amendments of other secondary legislation) is amended in accordance with this regulation.

(2) In paragraph 7 (the Banking Act 2009 (Restriction of Special Bail-in Provision etc.) Order 2014), in sub-paragraph (2)(a), omit sub-paragraph (i).

Amendment of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019

79.—(1) The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019(2) are amended in accordance with this regulation.

(2) In regulation 38 (Section 137R (financial promotion rules))—

(a) in paragraph (2), for ““insurance distribution directive,””, substitute ““(as defined in section 71I(5)),””; and

- (b) in paragraph (4) in inserted subsection (5A)—
 - (i) in paragraph (a)—
 - (aa) in sub-paragraph (iv), omit “or”;
 - (bb) in sub-paragraph (v), for “and”, substitute “or”; and
 - (cc) after sub-paragraph (v), insert—
 - “(vi) Article 44a of the recovery and resolution directive (as defined in paragraph (c)), and”
 - (ii) after paragraph (b), insert—
 - “(c) In paragraph (a)(vi), “recovery and resolution directive” means [Directive 2014/59/EU](#) of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms, as it had effect immediately before IP completion day.”