



# HSBC Investment Banking Act 2002

## 2002 CHAPTER iii

An Act to provide for the transfer of the investment banking business of HSBC Investment Bank plc to HSBC Bank plc and the transfer of the private banking business of HSBC Investment Bank plc to HSBC Republic Bank (UK) Limited; and for connected purposes. [7th November 2002]

**W**HEREAS HSBC Holdings plc (hereinafter called “HSBC Holdings”) is a public limited company incorporated in England under the Companies Act 1948 (c. 38) whose subsidiary companies carry on in the United Kingdom and elsewhere the businesses of banking and financial services and other related activities:

And whereas HSBC Investment Bank Holdings plc (hereinafter called “HSBC Investment Bank Holdings”) is a public limited company incorporated in England under the Companies Act 1985 (c. 6) whose subsidiary companies carry on in the United Kingdom and elsewhere the businesses of banking and financial services and other related activities:

And whereas HSBC Investment Bank plc (hereinafter called “HSBC Investment Bank”) is a public limited company incorporated in England under the Companies Acts 1948 to 1967 and carries on in the United Kingdom and elsewhere the businesses of banking and financial services and other related activities:

And whereas HSBC Bank plc (hereinafter called “HSBC Bank”) is a public limited company incorporated in England under the Companies Acts 1862 to 1879 and carries on in the United Kingdom and elsewhere the businesses of banking and financial services and other related activities:

And whereas HSBC Republic Bank (UK) Limited (hereinafter called “HSBC Republic Bank”) is a private limited company incorporated in England under the Companies Act 1948 and carries on in the United Kingdom the businesses of banking and financial services and other related activities:

And whereas HSBC Investment Bank Holdings, HSBC Investment Bank, HSBC Bank and HSBC Republic Bank are all wholly-owned subsidiaries of HSBC Holdings:

And whereas for the better conduct of the business of HSBC Investment Bank Holdings and its subsidiaries it is expedient—

- (a) that provision be made for the transfer to, and vesting in, HSBC Bank of the undertaking of HSBC Investment Bank with the exception of its private banking business and for the transfer of that private banking business to, and the vesting of that private banking business in, HSBC Republic Bank; and
- (b) that the transfers should be effected economically and without interference with the conduct and continuity of the businesses carried on by HSBC Investment Bank Holdings or its subsidiaries:

And whereas it is expedient that the other provisions in this Act should be enacted:

And whereas the objects of this Act could not have been attained without the authority of Parliament when the Bill for this Act was deposited:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## **1 Short title**

This Act may be cited as the HSBC Investment Banking Act 2002.

## **2 Interpretation**

- (1) In this Act, unless the subject or context otherwise requires—
- “account” includes any contract or facility between a person and HSBC Investment Bank by virtue of which money or any unit of account is, or may be, deposited or borrowed by any person;
  - “appointed day” means such day as may, under section 4 (Appointed day) of this Act be appointed for the purposes of this Act;
  - “contract” includes any agreement, transaction, arrangement or understanding, whether or not conditional or in writing and whether or not governed by English law;
  - “convey” has the same meaning as in the Law of Property Act 1925 (c. 20);
  - “customer” includes any person having an account or other dealing or a contract with HSBC Investment Bank;
  - “document” means any thing in which information of any description is recorded;
  - “enactment” means any enactment in this Act or in any general or local Act or in any order, rule or regulation made under any Act;
  - “existing” means existing, outstanding or in force immediately before the appointed day;
  - “holding company” has the meaning given by sections 736 and 736A of the Companies Act 1985 (c. 6);

- “HSBC Bank” means HSBC Bank plc;
- “HSBC Investment Bank Holdings” means HSBC Investment Bank Holdings plc;
- “HSBC Investment Bank” means HSBC Investment Bank plc;
- “HSBC Republic Bank” means HSBC Republic Bank (UK) Limited;
- “investment banking business” means the undertaking except the private banking business;
- “liability” includes a duty and an obligation of any description (whether present or future, actual, contingent or prospective);
- “private banking business” means—
- (a) that part of the undertaking which is employed, or has been incurred, exclusively in the provision of private banking services through the branches of HSBC Investment Bank at 29-31 Hill Street, London W1, 33 George Street, London W1, 47 Berkeley Square, London W1 or any predecessor to any such branch; and
  - (b) any other property, account, contract or liability of HSBC Investment Bank allocated by the directors of HSBC Investment Bank prior to the appointed day under **section 3** (Allocation of property etc. to Private Banking Business) of this Act;
- “property” means property and assets of every description (whether present or future, actual, contingent or prospective) and includes property and assets held on trust or in a fiduciary capacity and security interests, rights, benefits and powers of every description;
- “relevant successor bank” means in relation to the investment banking business HSBC Bank and in relation to the private banking business HSBC Republic Bank and any reference to a “relevant successor bank” in relation to any property or liability of HSBC Investment Bank which is transferred by virtue of this Act is a reference to whichever of HSBC Bank or HSBC Republic Bank such property or liability is transferred to by virtue of this Act;
- “seal” includes a common seal and also any official seal which may be kept pursuant to section 39 or 40 of the Companies Act 1985 (c. 6);
- “security interest” includes a mortgage or charge (whether legal or equitable), debenture, bill of exchange, promissory note, guarantee, lien, pledge (whether actual or constructive), hypothecation, assignment by way of security, indemnity, right of set-off, counterclaim, flawed asset arrangement, commitment or other means of securing payment or discharge of a debt or liability;
- “subsidiary” has the meaning given by sections 736 and 736A of the Companies Act 1985;
- “successor bank” means HSBC Bank or HSBC Republic Bank;
- “trustee” includes—
- (a) a trustee or custodian trustee of any trust, settlement, covenant, contract or will (whether originally so appointed or not, and whether appointed under hand or by deed or by order of any court);
  - (b) an executor of the will, or administrator of the estate, of a deceased person;
  - (c) a judicial trustee appointed by order of any court;
  - (d) an attorney for another person; and
  - (e) any person acting in a fiduciary capacity;

“undertaking” means the business and all property and liabilities of HSBC Investment Bank of whatever nature, but does not include—

- (a) any seal, or
- (b) any documents relating to the constitution of HSBC Investment Bank, or
- (c) those documents comprising registers, indices, or minute books usually required to be kept by HSBC Investment Bank at its registered office pursuant to the provisions of the Companies Act 1985 (c. 6), or
- (d) any duties and obligations of HSBC Investment Bank in respect of its share capital;

“will” includes a codicil and any other testamentary writing.

- (2) Any reference in this Act to property or liabilities of HSBC Investment Bank is a reference to property or liabilities—
  - (a) wherever they are situated or arise;
  - (b) whether or not they are capable of being transferred or assigned by HSBC Investment Bank; and
  - (c) whether HSBC Investment Bank is entitled or subject to them under the law of any part of the United Kingdom or under the law of any country or territory outside the United Kingdom.

### **3 Allocation of property etc. to Private Banking Business**

- (1) Prior to the appointed day the directors of HSBC Investment Bank may allocate any property, account, contract or liability of HSBC Investment Bank to the private banking business.
- (2) HSBC Investment Bank shall advertise concise details of any such allocation in the London Gazette, Edinburgh Gazette and Belfast Gazette prior to the appointed day.

### **4 Appointed day**

- (1) The directors of HSBC Investment Bank Holdings may appoint a day to be the appointed day for the purposes of this Act.
- (2) Before the day so appointed, HSBC Investment Bank Holdings shall publish a notice in the London Gazette, the Edinburgh Gazette and the Belfast Gazette of the day so appointed, stating that it is the appointed day for the purposes of this Act.
- (3) The publication of a notice under subsection (2) above shall be conclusive evidence of the appointed day for the purposes of this Act, and a photocopy or other reproduction, certified by an authorised officer of HSBC Investment Bank Holdings, of a page or part of a page of the London Gazette, the Edinburgh Gazette or the Belfast Gazette containing the notice shall be conclusive evidence of publication of the notice.

## **5 Transfer to HSBC Bank plc and HSBC Republic Bank (UK) Limited**

- (1) On the appointed day the investment banking business shall, by virtue of this Act and without further assurance, be transferred to, and vested in, HSBC Bank to the intent that HSBC Bank shall succeed to the investment banking business as if in all respects HSBC Bank were the same person in law as HSBC Investment Bank.
- (2) On the appointed day the private banking business shall, by virtue of this Act and without further assurance, be transferred to, and vested in, HSBC Republic Bank to the intent that HSBC Republic Bank shall succeed to the private banking business as if in all respects HSBC Republic Bank were the same person in law as HSBC Investment Bank.
- (3) Where the transfer or vesting of any property or liability comprised in the investment banking business or the private banking business is governed by the law of any country or territory outside the United Kingdom, HSBC Investment Bank shall, if a successor bank so requires, take all necessary steps for securing that the transfer to the relevant successor bank of the property or liability is fully effective under the law of that country or territory.

## **6 Provisions as to trust property and wills**

- (1) Any property transferred to, and vested in, a successor bank by virtue of this Act which immediately before the appointed day was held by HSBC Investment Bank whether alone or jointly with any other person, as trustee, shall, on and from the appointed day, be held by the relevant successor bank alone or, as the case may be, jointly with such other person in the same capacity upon the same trusts, and with and subject to the same powers, provisions and liabilities, as were applicable thereto prior to such transfer.
- (2) The following—
  - (a) any existing instrument or order of any court under or by virtue of which any property became or may become vested in HSBC Investment Bank as trustee, and
  - (b) any provision therein, or any existing contract for the payment to, or retention by, HSBC Investment Bank of remuneration for its services in any such capacity,

shall, on and from the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to HSBC Investment Bank, other than a reference (however worded and whether express or implied) to terms and conditions of, or to a rate, charge, tariff or scale of fees of, HSBC Investment Bank, there were substituted a reference to the relevant successor bank:

Provided that any right which was exercisable by HSBC Investment Bank to alter the terms and conditions or the rate, charge, tariff or scale of fees of HSBC Investment Bank shall after the appointed day be exercisable by the relevant successor bank.

- (3) The following—
  - (a) any will made before the appointed day which has not been proved in any part of the United Kingdom before the appointed day, and

- (b) any will made on or after the appointed day, being a will which appoints HSBC Investment Bank to be a trustee or recipient of any property as trustee,

shall be construed and have effect as if for any reference therein to HSBC Investment Bank as such trustee or recipient or otherwise in connection with such appointment, not being a reference (however worded and whether express or implied) to terms and conditions of, or to a rate, charge, tariff or scale of fees of, HSBC Investment Bank, there were substituted a reference to HSBC Republic Bank:

Provided that any right which was exercisable by HSBC Investment Bank to alter the terms and conditions or the rate, charge, tariff or scale of fees of HSBC Investment Bank shall after the appointed day be exercisable by HSBC Republic Bank.

- (4) No testamentary gift shall be adeemed by reason only of the operation of any of the provisions of this Act.

## 7 Supplementary provisions as to transfer

- (1) Without prejudice to the generality of the foregoing provisions of this Act but subject to any provision of this Act to the contrary, the following provisions shall have effect in relation to the undertaking.
- (2) Every existing contract to which HSBC Investment Bank is a party shall be construed and have effect on and from the appointed day—
  - (a) as if the relevant successor bank were a party thereto instead of HSBC Investment Bank;
  - (b) subject to subsection (5) below, as if for any reference (however worded and whether express or implied) to HSBC Investment Bank there were substituted a reference to the relevant successor bank;
  - (c) as if any reference (however worded and whether express or implied) to the directors, officers, representatives or employees or to any director, officer, representative or employee of HSBC Investment Bank were a reference (as the case may require)—
    - (i) to the directors, officers, representatives or employees of the relevant successor bank, or
    - (ii) to such director, officer, representative or employee of the relevant successor bank as the relevant successor bank may nominate for that purpose, or
    - (iii) in default of nomination, to the director, officer, representative or employee of the relevant successor bank who corresponds as nearly as may be to the first-mentioned director, officer, representative or employee; and
  - (d) where the contract relates to property or liabilities which are for the time being only partly transferred to, and vested in, the relevant successor bank by virtue of this Act, as if the contract, to the extent to which it is enforceable by and against HSBC Investment Bank, constituted two separate contracts—

- (i) one of which is enforceable by and against the relevant successor bank only as regards the part of the property or, as the case may be, liabilities so transferred to, and vested in, the relevant successor bank, and
  - (ii) the other of which is enforceable by and against HSBC Investment Bank only as regards the part of the property or, as the case may be, liabilities not so transferred to, and vested in, the relevant successor bank.
- (3) Paragraphs (b) and (c) of subsection (2) above shall, on and from the appointed day, apply to any enactment other than the provisions of this Act and to any provision of any existing contract to which HSBC Investment Bank was not a party on the appointed day as they apply to a contract to which that subsection applies.
- (4) Paragraphs (a), (b) and (c) of subsection (2) above shall, on and from the appointed day, apply to any provision of any other existing document (not being a contract or a will) as they apply to a contract to which that subsection applies.
- (5) Paragraph (b) of subsection (2) above shall not apply to the name or title of any rate, charge, tariff, scale of fees, terms or conditions of HSBC Investment Bank which includes the initials, the name or part of the name of HSBC Investment Bank, but on or after the appointed day the relevant successor bank may change the name or title.
- (6) An offer or invitation to treat made to or by HSBC Investment Bank before the appointed day shall be construed and have effect on and after the appointed day as an offer or invitation to treat (as the case may be) made to or by the relevant successor bank.
- (7) Any account between HSBC Investment Bank and a customer shall, on and from the appointed day, become an account between the relevant successor bank and the customer subject to the same conditions and incidents as theretofore; and such account shall be deemed for all purposes to be a single continuing account:

Provided that nothing herein shall affect any right of the relevant successor bank or of the customer to vary the conditions or incidents subject to which any account is kept.
- (8) For the purpose of construing and giving effect to any existing contract which—
  - (a) has effect or continues to have effect on, or on and after, the appointed day; and
  - (b) makes reference to a rate, charge, tariff or scale of fees or to terms or conditions published, determined or ascertained from time to time by HSBC Investment Bank,

the relevant successor bank shall have the same right under that contract as HSBC Investment Bank had to publish, determine, ascertain, vary or amend rates, charges, tariffs, scales of fees, terms or conditions, and any such rates, charges, tariffs, scales of fees, terms or conditions published, determined, ascertained, varied or amended by the relevant successor bank shall apply in place of those which could have been published, determined, ascertained, varied or amended by HSBC Investment Bank.

- (9) Any existing instruction, order, direction, mandate, power of attorney, authority, undertaking or consent given to or by HSBC Investment Bank (whether in writing or not) shall have effect, on and from the appointed day, as if given to or, as the case may be, by the relevant successor bank.
- (10) Any negotiable instrument, cheque, warrant, draft, letter of credit or order for payment of money drawn on or by, or given to, or accepted or endorsed by, HSBC Investment Bank, or payable at any place of business of HSBC Investment Bank, whether so drawn, given, accepted, endorsed or payable before, on or after the appointed day, shall have the same effect, on and from the appointed day—
  - (a) as if it had been drawn on or by, or given to, or accepted or endorsed by, the relevant successor bank; and
  - (b) if relevant, as if the place of business at which it is payable were a place of business of the relevant successor bank.
- (11) Any document, claim or demand addressed after the appointed day to HSBC Investment Bank pursuant to an existing contract shall be deemed to have been addressed to the relevant successor bank.
- (12) The custody of any document, goods or other thing held by HSBC Investment Bank as bailee shall pass to the relevant successor bank on the appointed day, and the rights and obligations of HSBC Investment Bank under any contract of bailment relating to any such document, goods or thing shall on that day become rights and obligations of the relevant successor bank.
- (13) Any security interest held immediately before the appointed day by or on behalf of HSBC Investment Bank as security for the payment or discharge of any debt or liability shall, on and from the appointed day, be held by or on behalf of the relevant successor bank and be available to the relevant successor bank (whether for its own benefit or, as the case may be, for the benefit of any other person) as security for the payment or discharge of that debt or liability.
- (14) In relation to any security interest transferred to, and vested in, a successor bank by or under this Act and any liabilities thereby secured, the relevant successor bank shall be entitled to the same rights and priorities and be subject to the same obligations and incidents to which HSBC Investment Bank would have been entitled or subject if it had continued to hold the security interest.
- (15) Without prejudice to the generality of subsection (14) above, in any case where any existing liability subsists between HSBC Investment Bank and a successor bank in respect of which—
  - (a) HSBC Investment Bank or the relevant successor bank, or
  - (b) a nominee or agent of or trustee for HSBC Investment Bank or the relevant successor bank,

holds a security interest, that liability shall, for the purpose of enforcing or realising that security interest, be deemed to continue in effect notwithstanding the transfer to, and vesting in, the relevant successor bank of the undertaking or any part thereof.

- (16) Any security interest referred to in subsections (13) to (15) above which extends to future advances or liabilities shall, on and from the appointed day, be available to the relevant successor bank (whether for its own benefit or, as the case may be, for the benefit of any other person) as security for the payment or



discharge of future advances or liabilities to the same extent and in the same manner in all respects as it was available to HSBC Investment Bank immediately before that day as security for the payment or discharge of future advances or liabilities.

- (17) Where by virtue of this Act any property or liability of HSBC Investment Bank becomes property or a liability of a successor bank, the relevant successor bank and all other persons shall, on and from the appointed day, have the same rights, powers and remedies (and in particular the same rights and powers as to taking or resisting legal proceedings or making or resisting applications to any authority) for ascertaining, perfecting or enforcing that property or liability as if it had at all times been property or a liability of the relevant successor bank.
- (18) Any right of action and any remedy available in consequence thereof—
  - (a) which accrues, arises or becomes enforceable or available before the appointed day by or against HSBC Investment Bank, or
  - (b) which would, but for this Act, accrue, arise or become enforceable or available by or against HSBC Investment Bank after the appointed day,may to the same extent be enforced or availed of by or against the relevant successor bank after the appointed day.
- (19) Any legal proceedings, applications to any authority or other proceedings for the resolution of a dispute pending or current immediately before the appointed day by or against HSBC Investment Bank may be continued by or against the relevant successor bank.
- (20) Any judgment, order or award obtained by or against HSBC Investment Bank and not fully satisfied before the appointed day shall on that day, to the extent to which it is enforceable by or against HSBC Investment Bank, become enforceable by or against the relevant successor bank.
- (21) On the appointed day the relevant successor bank shall—
  - (a) succeed to all the rights, liabilities and obligations of HSBC Investment Bank in respect of data which is comprised in that part of the undertaking transferred to it and which is subject to the Data Protection Act 1998 (c. 29);
  - (b) become the data controller of any data which is comprised in that part of the undertaking transferred to it and which is subject to the Data Protection Act 1998 in place of HSBC Investment Bank, and shall be deemed to have been the data controller of all such data at all material times when data was processed; and
  - (c) be under the same duty by virtue of any law as HSBC Investment Bank was under to respect the confidentiality and privacy of any person and shall be bound by any specific notice given or request made by the data subject which was binding on HSBC Investment Bank and which required HSBC Investment Bank not to use data for marketing purposes.

- (22) In any consent given by a data subject in respect of such data as is mentioned in subsection (21) above, any reference to HSBC Investment Bank (or to any subsidiary or holding company of HSBC Investment Bank or any subsidiary of such a holding company) shall be deemed to include a reference to the relevant successor bank and any subsidiary or holding company of the relevant successor bank and any subsidiary of such a holding company.

## 8 Office-holders

No director, secretary or auditor of HSBC Investment Bank shall by virtue only of this Act become a director, secretary or, as the case may be, auditor of a successor bank.

## 9 Retirement benefits schemes

- (1) In this section “retirement benefits scheme” has the same meaning as in section 611 of the Income and Corporation Taxes Act 1988 (c. 1).
- (2) No retirement benefits scheme under which HSBC Investment Bank or a successor bank is the sole employer, the principal employer or a participating employer shall by reason only of the operation of any of the provisions of this Act be terminated or wound-up, in whole or in part.
- (3) In respect of an officer or employee of HSBC Investment Bank or a successor bank, no right to participate in or to qualify himself or any of his dependants to receive benefits under, and no pensionable service for the purposes of, a retirement benefits scheme—
- (a) under which HSBC Investment Bank or a successor bank is the sole employer, the principal employer or a participating employer, and
  - (b) of which the officer or employee is a member immediately before the appointed day,

shall be terminated, interrupted or otherwise affected by reason only of the operation of any of the provisions of this Act.

- (4) The trust deeds, rules and other documents and instruments constituting, governing or otherwise relating to any retirement benefits scheme to which the provisions of this section apply shall have effect subject to and in accordance with the provisions of this section.

## 10 Evidence of transfer

- (1) The production of a Queen’s Printer’s copy of this Act or a photocopy thereof, and such evidence of publication of notice of the appointed day as is specified in subsection (3) of **section 4** (Appointed day) of this Act, shall, for all purposes, be conclusive evidence of the transfer to, and vesting in, the relevant successor bank of the investment banking business or the private banking business, as the case may be, in accordance with the provisions of this Act.

- (2) Without prejudice to the generality of subsection (1) above, any such copy of this Act shall, in relation to any registered securities within the meaning of the Stock Transfer Act 1963 (c. 18) transferred to, and vested in, a successor bank by virtue of this Act, operate for all the purposes of the said Act of 1963 as a duly executed stock transfer in respect of the transfer of such securities from HSBC Investment Bank to the relevant successor bank.
- (3) Without prejudice to the generality of subsection (1) above—
- (a) any document made or executed on or after the appointed day whereby a successor bank, whether alone or jointly with any other person—
- (i) conveys, or transfers, or purports to convey or transfer, to any person (whether for consideration or not), or
- (ii) applies to be registered as the holder or proprietor of, any property held by HSBC Investment Bank immediately before the appointed day, whether alone or jointly with any other person, shall be sufficient evidence that the interest of HSBC Investment Bank in that property has been transferred to the relevant successor bank, alone or jointly, under this Act; and
- (b) where there is any other transaction by a successor bank on or after the appointed day in connection with, or in relation to, any property or liability which was property or a liability of HSBC Investment Bank immediately before the appointed day, it shall be deemed in favour of—
- (i) any other party to the transaction, or
- (ii) any person claiming through or under him,
- that the relevant successor bank has full power and authority to enter into that transaction as if the property or liability had been transferred to, and vested in, it under this Act.
- (4) Without prejudice to the generality of subsection (1) above—
- (a) any document made or executed on or after the appointed day whereby HSBC Investment Bank, whether alone or jointly with any other person—
- (i) conveys or transfers, or purports to convey or transfer, to any person (whether for consideration or not), or
- (ii) applies to be registered as the holder or proprietor of, any property held by it immediately before the appointed day, whether alone or jointly with any other person, shall be as effective as if that property had been conveyed, transferred or registered by the relevant successor bank; and
- (b) where there is any other transaction by HSBC Investment Bank on or after the appointed day in connection with, or in relation to, any property or liability which was property or a liability of HSBC Investment Bank immediately before the appointed day, that transaction shall be as effective as if it had been a transaction by the relevant successor bank.

- (5) A certificate given by or on behalf of a relevant successor bank at any time before the dissolution of HSBC Investment Bank and whether given before, on or after the appointed day, or a certificate given by or on behalf of a relevant successor bank after the dissolution of HSBC Investment Bank that any property or liability of HSBC Investment Bank specified in the certificate will transfer to, and vest in, or has transferred to, and vested in, the relevant successor bank under this Act shall be conclusive evidence for all purposes of the fact so certified.
- (6) Nothing in this section affects the liability of HSBC Investment Bank or the relevant successor bank to the other of them in respect of anything done, or purported to have been done, by either of them in connection with, or in relation to, any property or liabilities.

## **11 Dissolution of HSBC Investment Bank plc**

- (1) HSBC Investment Bank shall by virtue of this Act be dissolved on the day on which, in pursuance of a request made by or on behalf of HSBC Investment Bank Holdings at any time after the appointed day, the registrar of companies strikes HSBC Investment Bank off the register.
- (2) Notwithstanding section 654 of the Companies Act 1985 (c. 6) (property of a dissolved company), on the day on which HSBC Investment Bank is struck off the register under subsection (1) above all seals and documents of or relating to HSBC Investment Bank not transferred to, and vested in, the relevant successor bank on the appointed day shall, by virtue of this Act, be transferred to, and vested in, HSBC Bank and, where required to be kept at a place in England, shall be kept by HSBC Bank at such a place.

## **12 Evidence: documents**

All documents which would, before the appointed day, have been evidence in respect of any matter for or against HSBC Investment Bank shall be admissible in evidence in respect of the same matter for or against the relevant successor bank.

## **13 Application of Bankers' Books Evidence Act 1879**

- (1) In this section "books" shall be construed in accordance with section 9(2) of the Bankers' Books Evidence Act 1879 (c. 11).
- (2) On and from the appointed day the said Act of 1879 shall apply to the books of HSBC Investment Bank transferred to, and vested in, a successor bank by virtue of this Act, and to entries made in those books before the appointed day, as if such books were books of the relevant successor bank.
- (3) For the purposes of section 4 of the said Act of 1879, books so transferred to a successor bank shall be deemed to have been the ordinary books of the relevant successor bank at the time of the making of any entry therein which purports to have been made before the appointed day, and any such entry shall be deemed to have been made in the usual and ordinary course of business.

## 14 Savings in respect of transfers of property

- (1) The transfer of any property or liability by virtue of this Act shall not—
  - (a) constitute a purchase or creation of an interest in land for the purposes of section 30(2) of the Landlord and Tenant Act 1954 (c. 56) or constitute a relevant disposal within the meaning of section 4 of the Landlord and Tenant Act 1987 (c. 31) for the purposes of that Act; or
  - (b) constitute an assignment, transfer, devolution, alienation, parting with possession or other disposition of or dealing with property or of an interest in property for the purposes of any provision in any instrument, contract or order of any court concerning that property or that interest; or
  - (c) give rise to any forfeiture; or
  - (d) invalidate or discharge any contract, security interest or other thing; or
  - (e) require further registration in respect of any security interest; or
  - (f) cause or enable the benefit of any contract, permission, licence or privilege enjoyed by HSBC Investment Bank or the relevant successor bank to be lost or surrendered or otherwise affected, or require the disposal by HSBC Investment Bank or the relevant successor bank of any interest, otherwise than as provided for in this Act; or
  - (g) relieve any person under an obligation to HSBC Investment Bank of a corresponding obligation to the relevant successor bank; or
  - (h) constitute a breach of, or default under, or require any obligation to be performed sooner or later than would have otherwise been the case under, any contract or instrument to which the relevant successor bank or HSBC Investment Bank is a party or by which it is bound; or
  - (i) allow any party to any contract to which the relevant successor bank or HSBC Investment Bank is a party to terminate that contract when he would not otherwise have been able to terminate it; or
  - (j) operate so as to merge any leasehold interest in the reversion expectant on it; or
  - (k) entitle any party to any contract to which the relevant successor bank or HSBC Investment Bank is a party to vary the terms of that contract when he would not otherwise have been able to vary those terms or confer a right or benefit on him which he would not otherwise have had; or
  - (l) confer any greater or lesser rights or benefits, or impose any greater or lesser obligations, on any party to any contract to which HSBC Investment Bank or the relevant successor bank is a party when any such greater or lesser rights, benefits or obligations would not otherwise have been conferred or imposed.
- (2) Paragraphs (c) to (l) of subsection (1) above shall apply to subsidiaries of HSBC Investment Bank and subsidiaries of the relevant successor bank as they apply to HSBC Investment Bank and the relevant successor bank respectively.

## 15 Application to Scotland and Northern Ireland

- (1) This Act extends to Scotland and Northern Ireland.

- (2) In this Act as it applies to Scotland—
- “assignment” includes an assignation;
  - “bailee” includes a custodier or a holder on deposit or pledgee and “contract of bailment” includes any other contract regulating the deposit, custody, loan or hire of things;
  - “convey” includes the transfer of any interest in property and the execution and delivery of any deed or other instrument or document by which any property, or any estate, interest, security or other right in or over property, is constituted, completed, disposed, assigned, transmitted or discharged;
  - “debenture” includes a floating charge or any instrument containing a floating charge;
  - “forfeiture” includes irritancy;
  - “guarantee” includes a caution, whether proper or improper;
  - “judgment” includes a decree and an extract of a document registered in the books of Council and Session which is enforceable as a writ of execution;
  - “judicial trustee” includes a judicial factor;
  - “land” includes heritable and leasehold property;
  - “mortgage” includes a standard security, an assignation or disposition *ex facie* absolute and any contract qualifying the same, a bond and disposition or assignation in security, a cash credit bond and disposition or assignation in security, an assignation in security and any real right or burden of whatever kind in the nature of a security interest whether or not constituted in respect of a heritable property;
  - “reversion” means the interest of a landlord in land subject to a lease or the interest of the lessee of land who is the landlord under a sublease;
  - “security interest” includes an irrevocable mandate, a bond, right of retention and a right of compensation; and
  - “will” includes a trust disposition and settlement and any instrument taking effect on the death of any person whereby any part of his estate is disposed of, or under which a succession thereto arises.
- (3) In the application of this Act to Scotland—
- (a) all security interests expressed to be in favour of HSBC Investment Bank transferred to the relevant successor bank by virtue of this Act shall, on and from the appointed day, have the same effect in favour of the relevant successor bank up to the maximum amounts secured thereby respectively in all respects as if they had been originally granted in favour of the relevant successor bank for such maximum amounts;
  - (b) to enable the relevant successor bank to complete a title, if thought fit, to any property transferred to, and vested in, it by virtue of this Act, by notice of title or otherwise, or to deduce title, this Act shall be deemed to be, and may be used as, a general disposition, conveyance or, as the case may be, assignation of such property in favour of the relevant successor bank;
  - (c) the reference in subsection (3) of section 6 (Provisions as to trust property and wills) to any will which has not been proved, shall be construed as a reference to any will in respect of which the executor has not been confirmed.

- (4) In the application of this Act to Northern Ireland—
- (a) for the reference in subsection (1) of section 2 (Interpretation) of this Act to the Law of Property Act 1925 (c. 20) there shall be substituted reference to the Conveyancing Act 1881 (c. 41);
  - (b) the references in subsection (2) of section 10 (Evidence of transfer) of this Act to the Stock Transfer Act 1963 (c. 18) shall include a reference to the Stock Transfer Act (Northern Ireland) 1963 (c. 24 (N.I.));
  - (c) for paragraph (a) of section 14(1) (Savings in respect of transfers of property) of this Act, there shall be substituted the following:—
    - “(a) constitute a purchase or creation of an estate for the purposes of section 10(3) of the Business Tenancies (Northern Ireland) Order 1996 (S.I. 1996/725 (N.I. 5)); or”.

## 16 Costs of Act

All costs, charges and expenses preliminary to, and of and incidental to, the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by such of HSBC Bank and HSBC Republic Bank and in such proportions as the directors of HSBC Investment Bank Holdings shall, in their sole discretion, determine.