

SCHEDULES

SCHEDULE 5

Section 107.

TRANSITIONAL PROVISIONS

First report by Bank of England

- 1 If this Act comes into force in the course of a financial year of the Bank of England its first report under section 1 of this Act shall include a report on its activities during that year under the Banking Act 1979 (in this Schedule referred to as "the former Act").

Existing recognised banks and licensed institutions

- 2 (1) Any institution (within the meaning of this Act) which at the coming into force of section 3 of this Act or by virtue of paragraph 4 or 5 below is—
(a) a recognised bank; or
(b) a licensed institution,
under the former Act shall be deemed to have been granted an authorisation under this Act.
- (2) In relation to any such institution the reference in paragraph (a) of section 11(2) of this Act to the day on which it was authorised shall be construed as a reference to the day on which it was recognised or licensed under the former Act; and in relation to an institution recognised under the former Act by virtue of Part II of Schedule 3 to that Act that paragraph shall have effect with the omission of the words "in the United Kingdom".
- (3) In relation to any such institution the reference in section 70(4) of this Act to the time when notice was given to the Bank under subsection (1) shall be construed as a reference to the day on which it first applied for recognition or a licence under the former Act.

Conditional licences

- 3 (1) Any conditional licence in force under the former Act when section 3 of this Act comes into force or granted by virtue of paragraph 4 or 5 below shall be treated as an authorisation granted under this Act subject to restrictions (as to duration and conditions) corresponding to those applying to the conditional licence; but no institution shall be guilty of an offence under section 12 of this Act by reason only of a contravention of or failure to comply with a condition which is treated as a restriction of such an authorisation except so far as the condition is attributable to a variation under this Act.
- (2) In relation to an application for authorisation made by an institution holding a conditional licence which by virtue of this paragraph is treated as a restricted

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authorisation, paragraph 6(1) of Schedule 3 to this Act shall have effect with the substitution for the reference to £1 million of a reference to £250,000.

Applications subject to appeal

- 4 (1) Where an application for recognition or a licence under the former Act has been refused by the Bank and at the coming into force of section 3 of this Act—
- (a) an appeal is pending against that refusal; or
 - (b) the time for appealing against that refusal has not expired,
- the repeal of the former Act shall not preclude the determination, or the bringing and determination, of the appeal and the grant or refusal of recognition or a licence as a result of that determination.
- (2) Sub-paragraph (1) above does not apply to an appeal by a licensed institution against a refusal to grant it recognition.

Revocation

- 5 (1) Where the Bank has given an institution a notice under section 7(3) or (4) of the former Act and the proceedings pursuant to that notice under the provisions of Schedule 4 to that Act have not been concluded at the coming into force of section 3 of this Act the repeal of that Act shall not affect the operation of those provisions in relation to that notice.
- (2) Paragraph 2 above does not apply to an institution which is a recognised bank or licensed institution at the coming into force of section 3 of this Act if its recognition or licence is subsequently revoked by virtue of this paragraph.

Directions

- 6 (1) The repeal of the former Act shall not affect the continued operation of any direction under section 8 of that Act which has been confirmed in accordance with section 9 before the repeal and any such direction may be varied or revoked as if given under section 19 of this Act.
- (2) A direction may be given under section 19 of this Act to an institution which was a recognised bank or licensed institution under the former Act if—
- (a) its recognition or licence under that Act was revoked or surrendered; or
 - (b) a disqualification notice has been served on it under section 183 of the Financial Services Act 1986;
- but subsection (5) of section 19 shall apply to it as it applies to an authorised institution, taking references to the time when it was authorised as references to the time when it was recognised or licensed under the former Act.

Information and investigations

- 7 (1) The repeal of the former Act shall not affect the operation of any requirement imposed under section 16 of that Act before the repeal or any powers exercisable under that section in relation to any such requirement.
- (2) The repeal of the former Act shall not affect the operation of section 17 of that Act in any case in which a person or persons to carry out an investigation under that section have been appointed before the repeal.

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- (3) Sections 42, 43 and 44 of this Act shall have effect in relation to a contravention of section 1 or 39 of the former Act as they have effect in relation to a contravention of section 3 or 35 of this Act.

Members of Deposit Protection Board

- 8 Any person who is an ordinary member or alternate member of the Deposit Protection Board at the coming into force of Part II of this Act shall be treated as having been appointed under Schedule 4 to this Act.

Initial contributions by excluded institutions

- 9 (1) On or as soon as possible after the coming into force of Part II of this Act the Deposit Protection Board shall levy an initial contribution from each authorised institution which by virtue of an order under section 23(2) of the former Act did not have such a contribution levied from it under section 24 of that Act.
- (2) The amount of the initial contribution to be levied from an institution under this paragraph shall be the amount of the initial contribution that would have been levied from it under that section if it had not been exempted from levy by virtue of the order.

Maximum contributions

- 10 For the purposes of section 56(3) of this Act there shall be taken into account any contribution or repayment made under any provision of the former Act which corresponds to any provision of this Act.

Insolvencies before commencement of Part II

- 11 This Act does not affect the operation of sections 28 to 31 of the former Act in relation to any insolvency occurring before the coming into force of Part II of this Act; but section 63 of this Act shall apply (instead of section 32 of that Act) to any money received by the Board under section 31.

Borrowing

- 12 Any sum borrowed by virtue of section 26(3) of the said Act of 1979 shall, so far as outstanding at the coming into force of Part II of this Act, be treated as having been borrowed under section 64 of this Act.

Use of banking names

- 13 (1) Subject to sub-paragraph (2) below, section 67 of this Act does not-prohibit the use by an institution which is incorporated in or is a partnership formed under the law of any part of the United Kingdom and is deemed to be an authorised institution by virtue of paragraph 2 above of a name which was its registered business or company name immediately before the coming into force of Part III of this Act or of section 36 of the former Act.
- (2) Sub-paragraph (1) above shall cease to apply—
- (a) in the case of an incorporated institution, if the total value in sterling of its issued share capital and undistributable reserves falls below their total value at the coming into force of Part III of this Act; or

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- (b) in the case of a partnership in respect of which one or more designated fixed capital accounts are maintained, if the total value in sterling of those accounts falls below their value at that time.
- (3) Section 67 of this Act does not prohibit the use by—
- (a) an authorised institution which is a wholly-owned subsidiary of an institution to which sub-paragraph (1) above applies; or
 - (b) a company which has a wholly-owned subsidiary which is an institution to which that sub-paragraph applies,
- of a name which includes the name of the institution to which that sub-paragraph applies for the purpose of indicating the connection between the two companies.
- (4) In sub-paragraph (2) above "share capital" and "designated fixed capital account" have the same meaning as in subsection (2) of section 67 of this Act and "undistributable reserves" means such reserves as mentioned in paragraph (a)(ii) of that subsection.

Restriction on disclosure of information

- 14 In section 82(1) of this Act the reference to information received under or for the purposes of this Act includes a reference to information received under or for the purposes of the former Act.