

# **BANKING (SPECIAL PROVISIONS) ACT 2008**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON CLAUSES AND SCHEDULES**

#### ***General***

#### ***Section 15: Interpretation***

55. This section defines certain terms used in the Act.
56. “Financial assistance” includes assistance provided by way of loan, guarantee or indemnity, and also assistance provided by way of a transaction involving the sale and repurchase of securities. This kind of transaction is a form of lending between institutions.
57. “Securities” includes a range of instruments in addition to shares. These are mainly debt instruments and instruments which form part of an institution’s “own funds” for regulatory capital purposes (subsections (1) and (2)). Deposit-takers are required to hold a certain amount of this type of capital, for prudential supervision purposes, to ensure their solvency. In certain circumstances it may be appropriate to acquire these types of instrument by means of a transfer under section 3 or 6.
58. Subsection (4) is designed to ensure that, if an order is made under section 3 or 6 in relation to an institution, the powers in the Act can be exercised in relation to that institution even if it is no longer an authorised deposit-taker.
59. Subsection (5) provides that a group or subsidiary undertaking of a deposit-taker includes any undertaking which was a group or subsidiary undertaking of that deposit-taker immediately before an order was made under section 3 or 6 in relation to that deposit-taker.
60. Subsection (6) defines a company wholly owned by the Bank of England or the Treasury for the purposes of the Act. Such a company is either one of which the Bank, or a nominee of the Treasury, is the sole member, or a wholly-owned subsidiary of such a company.