



Banking Act 2009

2009 CHAPTER 1

PART 1

SPECIAL RESOLUTION REGIME

[^{F1}CHAPTER 6

THIRD-COUNTRY RESOLUTION ACTIONS

Third-country resolution actions

[^{F1}89H. Recognition of third-country resolution actions

- (1) This section applies where the Bank of England is notified of third-country resolution action in respect of a third-country institution or third-country parent undertaking.
- (2) The Bank must make an instrument which—
 - (a) recognises the action, or
 - (b) refuses to recognise the action, or
 - (c) recognises part of the action and refuses to recognise the remainder.An instrument within paragraph (a), (b) or (c) is a “third-country instrument” (as is an instrument under section 89I(4)(b)).
- (3) The Bank may only make a decision under subsection (2) with the approval of the Treasury.
- (4) Recognition of the action (or a part of it) may be refused only if the Bank and the Treasury are satisfied that one or more of the following conditions are satisfied—
 - (a) recognition would have an adverse effect on financial stability in the United Kingdom ^{F2}...;

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- (b) the taking of action in relation to a branch located in the United Kingdom of a third-country institution is necessary to achieve one or more of the special resolution objectives;
 - (c) under the third-country resolution action creditors (including in particular depositors) located or payable in [^{F3}the United Kingdom] would not, by reason of being located or payable in the [^{F4}United Kingdom], receive the same treatment as creditors (including depositors) who are located or payable in the ^{F5}... country concerned and have similar legal rights;
 - (d) recognition of, and taking action in support of, the third-country resolution action (or the part) would have material fiscal implications for the United Kingdom;
 - (e) recognition would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention) ^{F6}....
- (5) The recognition of third-country resolution action (or any part of it) is without prejudice to any normal insolvency proceedings.

^{F7}(6)

(7) In this section—

^{F8} ...

“group” has the meaning given by section 474 of the Companies Act 2006,

^{F8} ...

“third-country group company” means an undertaking—

- (a) which is (or, but for third-country resolution action or the exercise of a stabilisation power, would be) in the same group as a third-country institution or a third-country parent undertaking, and
- (b) in respect of which any conditions specified in an order made by the Treasury under section 81D are met (applying that order as if references to the bank were references to the third-country institution or third-country parent undertaking),

[^{F9}“third-country institution” means an institution established in a country or territory other than the United Kingdom that would, if it were established within the United Kingdom, be regarded as a bank, building society, credit union or investment firm;]

“third-country parent undertaking” [^{F10}means a parent undertaking, parent financial holding company or a parent mixed financial holding company established in a country or territory outside the United Kingdom];

“third-country resolution action” means action under the [^{F11}law of a country or territory outside the United Kingdom] to manage the failure or likely failure of a third-country institution [^{F12}or third-country parent undertaking] —

- (a) the anticipated results of which are, in relation to a third-country institution or third-country parent undertaking ^{F13}..., broadly comparable to results which could have been anticipated from the exercise of a stabilisation option in relation to an entity in the United Kingdom corresponding to the institution or undertaking, and
- (b) the objectives of which are broadly comparable, in relation to the [^{F14}country or territory concerned], to the objectives in section 4 as they apply in relation to the United Kingdom;

^{F15} ...]

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Textual Amendments

- F1** Pt. 1 Ch. 6, 7 inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **103**
- F2** Words in s. 89H(4)(a) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(2)(a)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F3** Words in s. 89H(4)(c) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(2)(b)(i)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F4** Words in s. 89H(4)(c) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(2)(b)(ii)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F5** Word in s. 89H(4)(c) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(2)(b)(iii)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Words in s. 89H(4)(e) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(2)(c)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F7** S. 89H(6) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(3)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F8** Words in s. 89H(7) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(4)(a)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F9** Words in s. 89H(7) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(4)(b)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F10** Words in s. 89H(7) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(4)(c)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F11** Words in s. 89H(7) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(4)(d)(i)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F12** Words in s. 89H(7) substituted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), **ss. 75(4)(a)**, 86(3); [S.I. 2023/779](#), reg. 4(ww)
- F13** Words in s. 89H(7) omitted (29.8.2023) by virtue of [Financial Services and Markets Act 2023 \(c. 29\)](#), **ss. 75(4)(b)**, 86(3); [S.I. 2023/779](#), reg. 4(ww)
- F14** Words in s. 89H(7) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 41(4)(d)(iii)** (with reg. 8) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**

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F15 Words in s. 89H(7) omitted (31.12.2020) by virtue of The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1394), reg. 1(2), **Sch. 1 para. 41(4)(e)** (with reg. 8) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Modifications etc. (not altering text)

C1 S. 89H(2) excluded (16.12.2022) by S.I. 2019/855, reg. 97A(1) (as inserted by The Russia (Sanctions) (EU Exit) (Amendment) (No. 17) Regulations 2022 (S.I. 2022/1331), regs. 1(2)(b), **19**)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(8A)(8B) inserted by [2012 c. 21 s. 96\(3\)](#)
- s. 8(2)(d) and word inserted by [2012 c. 21 s. 96\(4\)\(b\)](#)