

2009 No. 320

BANKS AND BANKING

**The Bradford & Bingley plc Transfer of Securities and Property
etc. (Amendment) Order 2009**

<i>Made</i>	- - - -	<i>19th February 2009</i>
<i>Laid before Parliament</i>		<i>19th February 2009</i>
<i>Coming into force</i>	- -	<i>20th February 2009</i>

The Treasury, in exercise of the powers conferred by sections 3(a), 6, 8, 12 and 13(2) of, and Schedule 1 to, the Banking (Special Provisions) Act 2008(b), make the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Bradford & Bingley plc Transfer of Securities and Property etc. (Amendment) Order 2009.

(2) This Order comes into force on 20th February 2009.

Amendment of the Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008

2.—(1) The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008(c) is amended as follows with effect from the date on which this Order comes into force.

(2) In article 6, for paragraph (3) substitute—

“(3) The principal and interest due in respect of a dated subordinated note shall not become due and payable except to the extent that condition 1 or 2 (as specified in paragraphs (4) and (5)) is met and paragraph (6) applies.

(4) Condition 1 is that Bradford & Bingley notifies the holder of a dated subordinated note that the principal or interest (or any part of either) is to be due and payable (whereupon the payment is due on the date specified by Bradford & Bingley).

(5) Condition 2 is that Bradford & Bingley has satisfied in full its liability to the FSCS under article 30(1); that liability shall not be regarded as satisfied in full for the purposes of this paragraph if article 30(4) applies.

(6) Principal or interest in respect of a dated subordinated note shall become due or payable only to the extent that Bradford & Bingley could make the payment and continue to be solvent thereafter.

(a) Under section 2(7) of the Act, section 2(1) does not apply to a subsequent exercise of the power to make an order in relation to the same deposit-taker.
(b) 2008 c. 2.
(c) S.I. 2008/2546.

(7) Any interest in respect of a dated subordinated note which, by virtue of paragraph (3), has not become due and payable, shall bear interest calculated at the same rate and in the same manner as provided for in the dated subordinated note.

(8) In a winding-up of, or on a distribution by an administrator appointed in respect of, Bradford & Bingley there shall be payable in respect of each dated subordinated note such amount as would be payable to a holder of a preference share in Bradford & Bingley ranking ahead of all other issued shares of Bradford & Bingley (including any other preference shares or any notional shares), on the assumption that such preference share was entitled to an amount equal to the principal amount of such dated subordinated note together any interest which has accrued up to the date of repayment.

(9) For the purposes of paragraph (6), Bradford & Bingley is not solvent if it would be deemed unable to pay its debts within the meaning given by section 123 of the Insolvency Act 1986(a).”

(3) In article 33, for “2009” substitute “2008”.

Dave Watts
Steve McCabe

19th February 2009

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 1986 c.45.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546) (“the Order”).

Article 2(2) amends Article 6 of the Order to make further provision as to the circumstances in which the principal and interest in respect of dated subordinated notes issued by Bradford & Bingley will become due and payable. The amendment provides that such payments are only due and payable if Bradford & Bingley notify the holders of such notes that they are due or payable, or if Bradford & Bingley has satisfied in full its liability under article 30 of the Order to the Financial Services Compensation Scheme. In each case the payment is only due and payable to the extent that Bradford & Bingley can make the payment and continue to remain solvent. The amendment also makes provision for the position of holders of dated subordinated debt in the event of a winding-up of, or on a distribution by an administrator appointed in respect of, Bradford & Bingley.

Article 2(3) corrects a typographical error in the Order.

A full Impact Assessment of the effect that this instrument will have on the costs of business and the voluntary sector has been prepared. It may be obtained from the Financial Stability Team, HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ. It is also available on HM Treasury’s website (www.hm-treasury.gov.uk) and is annexed to the Explanatory Memorandum published alongside this instrument on the OPSI website (www.opsi.gov.uk).

© Crown copyright 2009

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

STATUTORY INSTRUMENTS

2009 No. 320

BANKS AND BANKING

The Bradford & Bingley plc Transfer of Securities and Property
etc. (Amendment) Order 2009

£4.00

