

## STATUTORY INSTRUMENTS

# 2014 No. 3348

## The Bank Recovery and Resolution ( No. 2) Order 2014

### PART 9

#### Minimum requirement for own funds and eligible liabilities

#### CHAPTER 6

#### Minimum requirement for own funds and eligible liabilities: other provisions

#### Meeting minimum requirement through contractual bail-in instruments etc

**148.**—(1) This article applies where—

- (a) a minimum requirement is determined in accordance with Chapter 1 for an institution authorised by the PRA or FCA;
- (b) a minimum requirement is determined in accordance with Chapter 4 <sup>F1</sup>... for an undertaking set up in the United Kingdom; or
- (c) a minimum consolidated requirement is determined in accordance with Chapter 2 <sup>F2</sup>... for a relevant group.

(2) The Bank may determine that a minimum requirement or minimum consolidated requirement to which this article applies must be met partially through contractual bail-in instruments or composed wholly or partially of own funds or a specified kind of liability.

(3) In this article “contractual bail-in instrument” means an instrument which —

- (a) contains a contract term that where the Bank decides to apply the stabilisation option referred to in paragraph (c) of section 1(3) of the Banking Act 2009 <sup>M1</sup> (the bail-in option) in respect of the institution, undertaking or relevant group concerned, the instrument is to be written down or converted to the extent required before other eligible liabilities are written down or converted; and
- (b) is subject to a binding subordination agreement, undertaking or provision under which, in the event that normal insolvency proceedings are commenced, the instrument ranks below other eligible liabilities and cannot be repaid until other eligible liabilities outstanding on the date of commencement of the insolvency proceedings have been repaid.

[<sup>F3</sup>(4) “Normal insolvency proceedings” has the meaning given in section 3(1) of the Banking Act 2009.]

#### Textual Amendments

- F1** Words in art. 148(1)(b) 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. 3 para. 82\(2\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)

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**Changes to legislation:** There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, Section 148. (See end of Document for details)

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- F2** Words in art. 148(1)(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. 3 para. 82(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Art. 148(4) inserted (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. 3 para. 82(3)**; 2020 c. 1, Sch. 5 para. 1(1)

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**Marginal Citations**

- M1** Section 1(3) was substituted by the Financial Services (Banking Reform) Act 2013, Schedule 2, paragraphs 1 and 12(1) and (3); and was amended by [S.I. 2014/3329](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, Section 148.