
STATUTORY INSTRUMENTS

2014 No. 3348

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

PART 10

Requirement to write down or convert capital instruments

Application and interpretation of Part

149.—(1) This Part applies in relation to a relevant group.

(2) In this Part—

“alternative measure” means—

- (a) a measure for early intervention within the meaning given in Chapter 1 of Part 8;
- (b) [^{F1}a power of the FCA or PRA by or under legislation upon which the United Kingdom relied immediately before IP completion day to meet its obligations with respect to] Article 104.1 of the capital requirements directive (supervisory powers); or
- (c) a transfer of funds or capital from a parent undertaking;

^{F2} ...

“Case 2”—

- (a) in relation to a bank, means Case 2 set out in subsection (3) of section 6A of the Banking Act 2009 (cases where mandatory write-down, conversion, etc applies);
- (b) in relation to a banking group company, means Case 2 set out in subsection (4) of section 81AA of that Act^{M1} (cases where mandatory write-down, conversion, etc applies: banking group companies);

“Case 3”, in relation to a bank, means Case 3 set out in section 6A(4) of that Act;

“Case 4”, in relation to a bank, means Case 4 set out in section 6A(5) of that Act;

“Case 5”—

- (a) in relation to a bank, means Case 5 set out in section 6A(6) of that Act;
- (b) in relation to a banking group company, means Case 3 set out in section 81AA(8) of that Act;

^{F2} ...

“recognised capital instruments” means Common Equity Tier 1 instruments, Additional Tier 1 instruments or Tier 2 instruments which have been recognised for the purpose of meeting the own funds requirements (within the meaning given in section 3(1) of the Banking Act 2009^{M2}) of institutions on an individual and a consolidated basis; and

“UK group entity” means a group entity which is a bank or banking group company and has issued recognised capital instruments.

(3) In this article, for the interpretation of expressions defined in paragraph (2)—

“Additional Tier 1 instruments”, “Common Equity Tier 1 instruments” and “Tier 2 instruments” have the meaning given in section 3(1) of the Banking Act 2009^{M3} (interpretation: other expressions);

“bank” has the meaning given by section 2 of the Banking Act 2009^{M4} (interpretation: “bank”), but includes—

- (a) a building society within the meaning given in section 119 of the Building Societies Act 1986; and
- (b) an investment firm within the meaning given in section 258A of the Banking Act^{M5} (“investment firm”);

“banking group company” has the meaning given by section 81D of that Act^{M6}; and

“group entity” includes an undertaking which is—

- (a) ^{F3} ...
- (b) a mixed activity holding company.

Textual Amendments

- F1** Words in art. 149(2) 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. 3 para. 83(2)(a)** (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 10(c)(iii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F2** Words in art. 149(2) 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. 83(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in art. 149(3) 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. 83(3)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M1** Sections 6A and 81AA were inserted by [S.I. 2014/3329](#).
- M2** Section 3 was amended by the Financial Services Act 2012, section 96(2) and Schedule 17, paragraphs 1 and 4, and by [S.I. 2014/3329](#), which inserted the definition of “own funds requirements”.
- M3** These definitions were inserted by [S.I. 2014/3329](#).
- M4** Section 2 was amended by the Financial Services Act 2012, sections 101(1) and (3) and 102(1) and (3) and Schedule 17, paragraph 3, and by [S.I. 2011/2832](#).
- M5** Section 258A was inserted by the Financial Services Act 2012, section 101(1) and (7). See [S.I. 2014/1832](#), which was made under subsection (2)(b). No other order has been made under that subsection.
- M6** Section 81D was inserted by the Financial Services Act 2012, section 100(5); and was amended by the Financial Services (Banking Reform) Act 2013, Schedule 2, paragraphs 1 and 7(3), and 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 149.