
STATUTORY INSTRUMENTS

2014 No. 3348

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

PART 6

Assessment of resolvability and removal of impediments to resolvability

CHAPTER 1

Assessment of resolvability of institutions

Application and interpretation of Chapter 1

59.—(1) This Chapter applies where the Bank draws up a resolution plan for an institution in accordance with Chapter 1 of Part 5, or reviews a resolution plan drawn up in accordance with that Chapter.

(2) In this Chapter “assessment of resolvability” means an assessment of the extent to which it would be feasible and credible to [^{F1}apply the resolution tools, exercise resolution powers or take] insolvency proceedings in respect of the institution while avoiding to the maximum extent possible any significant adverse effect on the financial system of [^{F2}the United Kingdom] or the continuity of the institution's critical functions.

Textual Amendments

- F1** Words in art. 59(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. 34(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in art. 59(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. 34(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Assessment of resolvability

60.—(1) For the purpose of drawing up or reviewing the resolution plan the Bank must make an assessment of resolvability.

(2) For the purpose of making the assessment of resolvability the Bank must—

- (a) consider all relevant matters, including the matters set out in [^{F3}Schedule 2B and in any technical standards under paragraph (2A)];
- (b) have regard to the circumstances under which the institution may fail or be likely to fail, in particular—
 - (i) supposing that there is a situation of widespread financial instability or an occurrence of events which pose systemic risk; and
 - (ii) supposing that there is no such a situation or occurrence;

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, PART 6. (See end of Document for details)

- (c) not assume that the institution will be in receipt of—
 - (i) extraordinary public financial support;
 - (ii) emergency liquidity assistance^{M1}; or
 - (iii) any other liquidity assistance provided by the Bank under non-standard collateralisation, tenor and interest rate terms; and
- (d) consult—
 - (i) the appropriate regulator^{F4}...
 - ^{F5}(ii)

[^{F6}(2A) The Bank may make technical standards providing—

- (a) further examples of relevant matters to be considered; and
- (b) criteria to be examined,

for the purposes of making the assessment of resolvability.]

(3) Paragraph (2) has effect subject to the imposition of any simplified obligations (within the meaning given by article 9(3)(b)) with respect to the assessment of resolvability.

(4) The institution is deemed to be resolvable if the Bank concludes that it would be feasible and credible to [^{F7}apply the resolution tools, exercise resolution powers or take] insolvency proceedings in respect of the institution while avoiding to the maximum extent possible any significant adverse effect on the financial system of [^{F8}the United Kingdom] or the continuity of the institution's critical functions.

^{F9}(5)

Textual Amendments

- F3** Words in art. 60(2)(a) 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. 35(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Word in art. 60(2)(d)(i) 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. 35(2)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Art. 60(2)(d)(ii) 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. 35(2)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Art. 60(2A) 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. 35(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in art. 60(4) 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. 35(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in art. 60(4) 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. 35(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** Art. 60(5) 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. 35(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M1 For the meaning of “extraordinary public financial support” and “emergency liquidity assistance” see the recovery and resolution directive, Article 2.1, points (28 and (29).

CHAPTER 2

Assessment of resolvability of groups

Application and interpretation of Chapter 2

61.—(1) This Chapter applies where the Bank—

(a) ^{F10}... draws up a group resolution plan in accordance with Chapter 2 of Part 5 or reviews a plan drawn up in accordance with that Chapter^{F10} ...

^{F11}(b)

(2) In this Chapter “assessment of group resolvability” means an assessment of the extent to which it would be feasible and credible to [^{F12}apply the resolution tools or exercise resolution powers in respect of resolution entities, or take] insolvency proceedings in respect of group entities while avoiding to the maximum extent possible any significant adverse effect on the financial system of [^{F13}the United Kingdom] or the continuity of the critical functions of group entities.

Textual Amendments

F10 Words in art. 61(1)(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. 3 para. 36(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F11 Art. 61(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. 36(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F12 Words in art. 61(2) substituted (31.12.2020) by [S.I. 2018/1394](#), Sch. 3 para. 36(3)(a) (as substituted by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), 77(2))

F13 Words in art. 61(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. 36(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Assessment of group resolvability where the PRA or FCA is the consolidating supervisor

62.—(1) This article applies in relation to a relevant group in respect of which the PRA or FCA is the consolidating supervisor.

(2) For the purpose of drawing up or reviewing a group resolution plan the Bank must make an assessment of group resolvability [^{F14}in respect of the relevant group and, where there is more than one resolution group in the relevant group, in respect of each resolution group].

(3) For the purpose of making the assessment of group resolvability the Bank must—

(a) consider all relevant matters, including the matters set out in [^{F15}Schedule 2B and in any technical standards under paragraph (2A)];

(b) have regard to the circumstances under which [^{F16}resolution entities] may meet the conditions for resolution, in particular—

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, PART 6. (See end of Document for details)

- (i) supposing that there is a situation of widespread financial instability or an occurrence of events which pose systemic risk; and
- (ii) supposing that there is no such a situation or occurrence;
- (c) not assume that any of the group entities will be in receipt of—
 - (i) extraordinary public financial support;
 - (ii) emergency liquidity assistance; or
 - (iii) any other liquidity assistance provided by the Bank under non-standard collateralisation, tenor and interest rate terms; and
- (d) consult—
 - (i) the appropriate regulator;
 - ^{F17}(ii)
 - ^{F17}(iii)

[^{F18}(3A) The Bank may make technical standards providing—

- (a) further examples of relevant matters to be considered; and
- (b) criteria to be examined,

for the purposes of making the assessment of group resolvability.]

(4) Paragraph (3) has effect subject to the imposition of any simplified obligations (within the meaning given by article 9(3)(b)) with respect to the assessment of group resolvability.

(5) The relevant group [^{F19}or a resolution group] is deemed to be resolvable if the Bank concludes that it would be feasible and credible to [^{F20}apply the resolution tools or exercise resolution powers in respect of resolution entities, or take] insolvency proceedings in respect of group entities while avoiding to the maximum extent possible any significant adverse effect on the financial system of [^{F21}the United Kingdom] or the continuity of the critical functions of group entities.

- ^{F22}(6)
- ^{F22}(7)
- ^{F22}(8)

Textual Amendments

- F14** Words in art. 62(2) inserted (28.12.2020) by The Bank Recovery and Resolution (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1350), regs. 1(2), **36(a)**
- F15** Words in art. 62(3)(a) 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. 37(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in art. 62(3)(b) substituted (28.12.2020) by The Bank Recovery and Resolution (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1350), regs. 1(2), **36(b)**
- F17** Art. 62(3)(d)(ii)(iii) 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. 37(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F18** Art. 62(3A) 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. 37(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in art. 62(5) inserted (28.12.2020) by The Bank Recovery and Resolution (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1350), regs. 1(2), **36(c)(i)**

- F20** Words in art. 62(5) substituted (31.12.2020) by S.I. 2018/1394, Sch. 3 para. 37(4)(a) (as substituted by The Bank Recovery and Resolution (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1350), regs. 1(2), 77(3))
- F21** Words in art. 62(5) 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. 37(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F22** Art. 62(6)-(8) 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. 37(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Assessment of group resolvability where neither the PRA nor the FCA is the consolidating supervisor

^{F23}63.

Textual Amendments

- F23** Art. 63 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. 38**; 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 3

Removal of impediments to resolvability of institutions

Application and interpretation of Chapter 3

64.—(1) This Chapter applies where the Bank, after consulting the appropriate regulator and having made an assessment of resolvability in accordance with Chapter 1, determines that there are substantive impediments to the resolvability of an institution (“the impediments”).

(2) In this Chapter—

“determination” means a determination of a kind referred to in paragraph (1);

“pre-resolution powers” means the powers conferred on the Bank by section 3A of the Banking Act 2009 ^{M2} (removal of impediments to the exercise of stabilisation powers etc); and

“relevant proposals” means proposals which—

- (a) are prepared by an institution to which notice is given under article 65;
- (b) are for taking measures to address or remove the impediments [^{F24}including a timetable for doing so]; and
- (c) are required to be submitted by the institution within [^{F25}the response period].

[^{F26}“response period” means—

- (a) in a case [^{F27}where the institution does not, as applicable, meet the requirements referred to in Articles 92a and 494 of the capital requirements regulation or the minimum requirement for own funds and eligible liabilities in accordance with section 3A(4B) of the Banking Act], two weeks beginning with the date on which the institution received the notice; and
- (b) in any other case, four months beginning with that date.]

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, PART 6. (See end of Document for details)

Textual Amendments

- F24** Words in art. 64(2) inserted (28.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), **37(a)(i)**
- F25** Words in art. 64(2) substituted (28.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), **37(a)(ii)**
- F26** Words in art. 64(2) inserted (28.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), **37(b)**
- F27** Words in art. 64 substituted (31.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(3), **74(3)**

Marginal Citations

- M2** Section 3A was inserted by [S.I. 2014/3329](#).

Notice of determination

65.—(1) The Bank must give notice of a determination to—

- (a) the institution concerned; [^{F28}and]
- (b) the appropriate regulator^{F29}...
- ^{F30}(c)

(2) The notice must—

- (a) be in writing;
- (b) set out the impediments; and
- (c) give reasons for the determination.

Textual Amendments

- F28** Word in art. 65(1)(a) added (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. 39(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F29** Word in art. 65(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. 39(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F30** Art. 65(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. 39(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Effect of notice of determination

66.—(1) A notice under article 65 has the effect of suspending the Bank's duty to draw up a resolution plan for the institution (or review the resolution plan adopted for the institution) until the Bank has approved relevant proposals or exercised pre-resolution powers.

(2) The Bank, after consulting the appropriate regulator, must assess whether the measures set out in relevant proposals would adequately address or effectively remove the impediments.

(3) Where the institution—

- (a) fails to submit relevant proposals within the [^{F31}response] period, or

(b) the Bank concludes that the measures set out in relevant proposals would not adequately address or effectively remove the impediments,
the Bank must exercise pre-resolution powers with the object of requiring the institution to take specified measures to address or remove the impediments (“remedial measures”).

(4) In a direction given by the Bank for that purpose the Bank must—

- (a) demonstrate how the measures set out in relevant proposals would not adequately address or effectively remove the impediments;
- (b) demonstrate how the remedial measures will adequately address or effectively remove the impediments in a manner proportionate to the burden or restriction imposed by the direction; and
- (c) require the institution to—
 - (i) prepare a plan showing how it will comply with the remedial measures; and
 - (ii) submit that plan within one month beginning on the date of the direction.

(5) [^{F32}Where the consent of the appropriate regulator is not required under section 3A(5) of the Banking Act 2009,] the Bank must consult the appropriate regulator and, where appropriate, the Financial Policy Committee before determining remedial measures.

(6) For the purpose of assessing relevant proposals and determining remedial measures the Bank must take account of—

- (a) the threat to financial stability posed by the impediments; and
- (b) the effect of the remedial measures on—
 - (i) the business and financial stability of the institution and its ability to contribute to the economy of the United Kingdom ^{F33} ...;
 - (ii) the [^{F34}market in the United Kingdom] for financial services;
 - (iii) the financial stability of [^{F35}the United Kingdom].

(7) The Bank must give the institution written notice of the remedial measures, including a reasoned account of its decision to require the institution to take those measures.

Textual Amendments

- F31** Word in art. 66(3)(a) substituted (28.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), **38(a)**
- F32** Words in art. 66(5) inserted (28.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), **38(b)**
- F33** Words in art. 66(6)(b)(i) 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. 40(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in art. 66(6)(b)(ii) 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. 40(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F35** Words in art. 66(6)(b)(iii) 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. 40(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Right of appeal

67.—(1) A person who is aggrieved by—

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, PART 6. (See end of Document for details)

- (a) a determination,
- (b) the Bank's conclusion that the measures set out in relevant proposals would not adequately address or effectively remove the impediments, or
- (c) the exercise of pre-resolution powers,

may refer the matter to the Tribunal (within the meaning given in section 417(1) of FSMA ^{M3}).

(2) Part 9 of FSMA (hearings and appeals) has effect in relation to a reference to the Tribunal under paragraph (1) as if it were a reference of a decision of the Bank under FSMA.

Marginal Citations

M3 This definition was inserted by [S.I. 2010/22](#).

CHAPTER 4

Removal of impediments to resolvability of group entities
where the PRA or FCA is the consolidating supervisor

Application and interpretation of Chapter 4

68.—(1) This Chapter applies where, in relation to a relevant group—

- (a) the PRA or FCA is the consolidating supervisor; and
- (b) the Bank, having made an assessment of group resolvability in accordance with Chapter 2, has identified substantive impediments to the resolvability of a group entity (“the impediments”).

(2) In this Chapter—

“group entity” means the [^{F36}UK parent undertaking] or a subsidiary within the relevant group which is—

- (a) an institution
- (b) a financial institution; or
- (c) a parent undertaking of an institution which is ^{F37}...—
 - (i) ^{F37}...
 - (ii) a qualifying parent undertaking;

“measures for structural change” means—

- (a) measures for changing the legal or operational structure of a group entity in order to ensure, through the application of resolution tools and the exercise of resolution powers, that critical functions can be separated, legally or operationally, from the performance of other functions;
- (b) measures for establishing [^{F38}a UK] parent financial holding company; or
- (c) where an institution is a subsidiary of a relevant MAHC, measures for establishing a financial holding company as a parent undertaking of the institution for the purpose of—
 - (i) facilitating the application of resolution tools and the exercise of resolution powers to achieve any of the resolution objectives; or
 - (ii) ensuring that applying the resolution tools and exercising the resolution powers does not have an adverse effect on the non-financial part of the group of the relevant MAHC;

“the plan” means the group resolution plan being drawn up for the relevant group (or the group resolution plan which has been adopted for the group and is being reviewed);

“pre-resolution powers” has the same meaning as in Chapter 3;

“qualifying parent undertaking” has the meaning given by section 192B of FSMA^{M4} (meaning of “qualifying parent undertaking”); and

“remedial measures” means measures to address or remove the impediments.

[^{F39}“response period” means—

(a) in a case [^{F40}where the institution does not, as applicable, meet the requirements referred to in Articles 92a and 494 of the capital requirements regulation or the minimum requirement for own funds and eligible liabilities in accordance with section 3A(4B) of the Banking Act], two weeks beginning with the date on which the institution received the notice; and

(b) in any other case, four months beginning with that date.]

(3) “Relevant MAHC”, in the definition of “measures for structural change”, means a mixed activity holding company which has at least one subsidiary which—

(a) is an institution; and

(b) is not a subsidiary of a financial holding company which is also a subsidiary of the mixed activity holding company.

Textual Amendments

F36 Words in art. 68(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. 41(2)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F37 Words in art. 68(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. 41(2)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F38 Words in art. 68(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. 41(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F39 Words in art. 68(2) inserted (28.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), **39**

F40 Words in art. 68 substituted (31.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(3), **74(4)**

Marginal Citations

M4 Section 192B was inserted by the Financial Services Act 2012, section 27, which inserted Part 12A of FSMA.

Report on substantive impediments to the resolvability of group entities

69.—(1) The Bank, in co-operation with ^{F41}... the appropriate regulator ^{F41}..., must prepare a report which—

(a) contains an analysis of the impediments;

(b) proposes remedial measures for the impediments; and

(c) examines the impact of the remedial measures on the business of the group entities.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, PART 6. (See end of Document for details)

[^{F42}(2) The Bank must submit its report to the UK parent undertaking and the appropriate regulator.]

Textual Amendments

- F41** Words in art. 69(1) 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. 42(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F42** Art. 69(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. 42(3)**; 2020 c. 1, Sch. 5 para. 1(1)

Suspension of requirement to draw up or review group resolution plan

70.—(1) ^{F43}... The submission of the Bank's report under article 69 has the effect of suspending the Bank's duty to draw up or review the plan until the Bank determines remedial measures under article 71(3)(c).

^{F44}(2)

^{F44}(3)

Textual Amendments

- F43** Words in art. 70(1) 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. 43(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F44** Art. 70(2)(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. 43(3)**; 2020 c. 1, Sch. 5 para. 1(1)

Determining remedial measures

71.—(1) The [^{F45}UK] parent undertaking may, within [^{F46}the response period] beginning with the date on which it receives the Bank's report, submit to the Bank its observations on the report and a proposal to take alternative remedial measures (“alternative proposal”).

(2) The Bank must send such observations and any alternative proposal to [^{F47}the appropriate regulator].

(3) ^{F48}... The Bank must—

- (a) confirm the impediments with or without modification;
- (b) assess any alternative proposal; and
- (c) determine remedial measures in the exercise of pre-resolution powers—
 - (i) where the Bank concludes that the measures set out in an alternative proposal would adequately address or effectively remove the impediments, by approving that proposal (with or without modification);
 - (ii) otherwise, by specifying the measures which are to be taken.

^{F49}(4)

(5) The Bank must consult the appropriate regulator and, where appropriate, the Financial Policy Committee before determining remedial measures under paragraph (3)(c).

- (6) In considering any matter referred to in paragraph (3) or (4) the Bank must take account of—
- (a) the threat to financial stability posed by the impediments; and
 - (b) the effect of the measures on—
 - (i) the business and financial stability of each group entity and its ability to contribute to the economy of the United Kingdom ^{F50} ...
 - (ii) the [^{F51}market in the United Kingdom] for financial services;
 - (iii) the financial stability of [^{F52}the United Kingdom].
- (7) Paragraphs (8) and (9) apply where remedial measures determined under paragraph (3) ^{F53} ... are to be implemented by a group entity set up in the United Kingdom.
- (8) The Bank must exercise pre-resolution powers with the object of requiring the entity to take the remedial measures.
- (9) In a direction given for that purpose, the Bank—
- (a) if it has specified the measures which are to be taken, must demonstrate how the measures set out in an alternative proposal would not adequately address or effectively remove the impediments;
 - (b) must demonstrate how the remedial measures will adequately address or effectively remove the impediments in a manner proportionate to the burden or restriction imposed by the direction; and
 - (c) must require the entity to—
 - (i) prepare a plan showing how it will comply with the remedial measures; and
 - (ii) submit that plan within one month beginning on the date of the direction.

Textual Amendments

- F45** Word in art. 71(1) 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. 44(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F46** Words in art. 71(1) substituted (28.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), **40**
- F47** Words in art. 71(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. 44(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F48** Words in art. 71(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. 44(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F49** Art. 71(4) 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. 44(5)**; 2020 c. 1, Sch. 5 para. 1(1)
- F50** Words in art. 71(6)(b)(i) 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. 44(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F51** Words in art. 71(6)(b)(ii) 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. 44(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F52** Words in art. 71(6)(b)(iii) 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. 44(6)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, PART 6. (See end of Document for details)

F53 Words in art. 71(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. 3 para. 44(7)**; 2020 c. 1, Sch. 5 para. 1(1)

Joint decision on impediments to group resolvability and remedial measures

^{F54}72.

Textual Amendments

F54 Art. 72 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. 45**; 2020 c. 1, Sch. 5 para. 1(1)

References to EBA

^{F55}73.

Textual Amendments

F55 Art. 73 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. 45**; 2020 c. 1, Sch. 5 para. 1(1)

Requesting the assistance of EBA

^{F56}74.

Textual Amendments

F56 Art. 74 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. 45**; 2020 c. 1, Sch. 5 para. 1(1)

^{F57}CHAPTER 5

Removal of impediments to resolvability of groups where
neither the PRA nor the FCA is the consolidating supervisor

Textual Amendments

F57 Pt. 6 Ch. 5 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. 46**; 2020 c. 1, Sch. 5 para. 1(1)

Application and interpretation of Chapter 5

^{F57}75.

Report on substantive impediments to the resolvability of group entities

^{F57}75A.

Suspension of requirement to draw up or review group resolution plan

^{F57}76.

Determining remedial measures

^{F57}77.

Joint decision on impediments to group resolvability and remedial measures

^{F57}78.

Failure to reach joint decision: disagreement by the Bank with joint proposals

^{F57}79.

Failure to reach joint decision: agreement by the Bank with joint proposals

^{F57}80.

References to EBA

^{F57}81.

Requesting the assistance of EBA

^{F57}82.

Status:

Point in time view as at 31/12/2020.

Changes to legislation:

There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, PART 6.