
STATUTORY INSTRUMENTS

2018 No. 1244

**The Banks and Building Societies
(Priorities on Insolvency) Order 2018**

PART 5

Amendments of the Insolvency (Northern Ireland) Order 1989

Interpretation

29. After Article 347 insert—

“Financial institutions and their non-preferential debts

347A.—(1) In this Order “relevant financial institution” means any of the following—

- (a) a credit institution,
- (b) an investment firm,
- (c) a financial holding company,
- (d) a mixed financial holding company.
- (e) a financial institution which is—
 - (i) a subsidiary of an entity referred to in sub-paragraphs (a) to (d), and
 - (ii) covered by the supervision of that entity on a consolidated basis in accordance with Articles 6 to 17 of Regulation (EU) No 575/2013⁽¹⁾, or
- (f) a mixed-activity holding company.

(2) The definitions in Article 4 of Regulation (EU) No. 575/2013⁽²⁾ apply for the purposes of paragraph (1).

(3) In this Order, in relation to a relevant financial institution—

- (a) “ordinary non-preferential debts” means non-preferential debts which are neither secondary non-preferential debts nor tertiary non-preferential debts;
- (b) “secondary non-preferential debts” means non-preferential debts issued under an instrument where—
 - (i) the original contractual maturity of the instrument is of at least one year,
 - (ii) the instrument is not a derivative and contains no embedded derivative, and
 - (iii) the relevant contractual documentation and where applicable the prospectus related to the issue of the debts explain the priority of the debts under this Order, and

(1) OJ L 176, 27.6.2013, p. 1; there are no relevant amendments; for corrigenda see OJ L 208, 2/9/13, p.68, OJ no L321, 30/11/2013 p. 6. and OJ L 20, 25.1.2017, p. 2.

(2) OJ L 176, 27.6.2013, p. 1; there are no relevant amendments; for corrigenda see OJ L 208, 2/9/13, p.68, OJ no L321, 30/11/2013 p. 6. and OJ L 20, 25.1.2017, p. 2.

(c) “tertiary non-preferential debts” means all subordinated debts, including (but not limited to) debts under Common Equity Tier 1 instruments, Additional Tier 1 instruments and Tier 2 instruments (all within the meaning of Part 1 of the Banking Act 2009).

(4) In paragraph(3)(b), “derivative” has the same meaning as in Article 2(5) of Regulation (EU) No 648/2012**(3)**.

(5) For the purposes of paragraph (3)(b)(ii) an instrument does not contain an embedded derivative merely because—

- (a) it provides for a variable interest rate derived from a broadly used reference rate,
or
- (b) it is not denominated in the domestic currency of the person issuing the debt (provided that the principal, repayment and interest are denominated in the same currency).”.

(3) OJ L 201, 27.7.2012, p. 1; there are no relevant amendments; for corrigenda see OJ L 321, 30/11/2013, p.6.