

SCHEDULE 1

Regulation 2

Amendments of the Banking Act 2009

Introduction

1. The Banking Act 2009 is amended as follows.

Commencement Information

- II** Sch. 1 para. 1 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

Special resolution regime: introduction

2. Section 3 (interpretation of Part 1) is amended in accordance with paragraphs 3 to 6.

Commencement Information

- I2** Sch. 1 para. 2 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

- 3.—(1) Subsection (1) is amended as follows.

(2) In the definition of “the capital requirements regulation” at the end insert “ as it had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1394) were made, ”.

- (3) In the definition of “critical functions”—

- (a) for “subsection (2)” substitute “ subsections (2) and (2A) ”;
- (b) after “operations” insert “ (wherever carried out) ”;
- (c) omit “in one or more EEA states”;
- (d) in paragraph (a), at the end insert “ of the United Kingdom ”;
- (e) in paragraph (b), at the end insert “ in the United Kingdom ”.

- (4) After that definition insert—

““FSCS” means the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000);”.

- (5) After that definition insert—

““normal insolvency proceedings” means the collective insolvency proceedings which—

- (a) entail the partial or total divestment of a debtor and the appointment of a liquidator or administrator (or a similar officeholder),
- (b) are normally applicable to institutions under the law of any part of the United Kingdom, and
- (c) are either specific to those institutions or generally applicable to any natural or legal person;

and, in particular, includes the bank insolvency procedure and the bank administration procedure;”.

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I3 Sch. 1 para. 3(2) in force at 21.12.2018 and Sch. 1 para. 3 in force otherwise at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)(3)(b)**

4. In subsection (2), for paragraph (a) (but not the “and” after it) substitute—

“(a) Article 6 of Commission Delegated Regulation (EU) 2016/778 (criteria relating to the determination of critical functions) applies.”.

Commencement Information

I4 Sch. 1 para. 4 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

5. After subsection (2) insert—

“(2A) The Treasury may by regulations made by statutory instrument specify criteria for the determination of the activities, services and operations referred to in the definition of “critical functions”.

(2B) The power conferred by subsection (2A) includes—

(a) power to amend or revoke Article 6 of Commission Delegated Regulation (EU) 2016/778; and

(b) power to amend or repeal subsection (2)(a).

(2C) A statutory instrument containing regulations under subsection (2A) is subject to annulment in pursuance of a resolution of either House of Parliament.”.

Commencement Information

I5 Sch. 1 para. 5 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

6. After subsection (3) insert—

“(4) In this Part a reference to the PRA rulebook is to the rulebook published by the PRA containing rules made by the PRA under the Financial Services and Markets Act 2000 as the rulebook has effect on [^{F1}IP completion day].”.

Textual Amendments

F1 Words in Sch. 1 para. 6 substituted (30.12.2020) by **The Financial Services and Economic and Monetary Policy (Consequential Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1301)**, regs. 1, 3, **Sch. para. 10(b)(i)**

Commencement Information

I6 Sch. 1 para. 6 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

Objectives and Code

7.—(1) Section 4 (special resolution objectives) is amended as follows.

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- (2) In subsection (4)(a)—
- (a) for the words from “authorised” to “Article 25,” substitute “ authorised or recognised in the United Kingdom in accordance with Article 14 or 25 ”;
 - (b) at the end insert “ , as that Regulation had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1394) were made ”.
- (3) For subsection (7) substitute—
- “(7) Objective 5 is to protect investors and depositors to the extent that they have investments or deposits covered by the FSCS.”.

Commencement Information

I7 Sch. 1 para. 7(2)(b) in force at 21.12.2018 and Sch. 1 para. 7 in force otherwise at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)(3)(b)**

Mandatory write-down, conversion etc of capital instruments

8.—(1) Section 6A (cases where mandatory write-down, conversion, etc applies) is amended as follows.

(2) In subsection (4)(d), for the words from the beginning to “directive” substitute “ the Bank of England makes a determination ”.

- (3) In subsection (9)—
- (a) omit the definition of “appropriate authority”;
 - (b) in the definition of “consolidated basis” for “Article 2.1(7) of the recovery and resolution directive” substitute “ Article 4.1(47) and (48) of the capital requirements regulation ”.

Commencement Information

I8 Sch. 1 para. 8 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

9. In section 6B (mandatory write-down, conversion, etc of capital instruments), in subsection (9), for the words from “, pursuant” to the end substitute—

- “(a) pursuant to this section as it applies in relation to a banking group company by virtue of section 81AA, or
- (b) in the course of applying the bail-in option provided for by section 12A or section 81BA.”.

Commencement Information

I9 Sch. 1 para. 9 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

10.—(1) Section 6C (mandatory reduction instruments: implementation of requirements of section 6B) is amended as follows.

- (2) In subsection (4)(a)—
- (a) for “parent” (where it first appears) substitute “ UK parent ”, and

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- (b) for the words from “resolution” to the end substitute “ Bank of England ”.
- (3) In subsection (4)(b) for “State or a government entity” substitute “ Treasury ”.
- (4) In subsection (4)(d), for the words from “complies” to the end substitute “ represents appropriate compensation to the affected creditor for any loss incurred in consequence of the conversion of that instrument [^{F2}or liability]. ”.
- (5) After subsection (4) insert—
 - “(4A) Where different conversion rates are applied to different classes of instrument [^{F3}or liability], a lower conversion rate must be applied to subordinated debt than is applied to debts ranking higher in the hierarchy of claims in normal insolvency proceedings.”.
- (6) In subsection (7), omit the definition of “resolution authority”.

Textual Amendments

- F2** Words in Sch. 1 para. 10(4) inserted (30.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), **76(2)(a)**
- F3** Words in Sch. 1 para. 10(5) inserted (30.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), **76(2)(b)**

Commencement Information

- I10** Sch. 1 para. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Valuation before mandatory write-down of capital or stabilisation action

- 11.—**(1) Section 6E (pre-resolution valuation) is amended as follows.
 - (2) For subsection (6) substitute—
 - “(6) The valuation carried out under this section must follow the methodology specified in—
 - (a) any Commission Regulation containing regulatory technical standards adopted by the European Commission under article 36.16 of the recovery and resolution directive, so far as they are retained EU law, or
 - (b) technical standards made under subsection (11)(a)”.
 - (3) For subsection (10) substitute—
 - “(10) A provisional valuation carried out under subsection (1) must make provision in respect of additional losses by the bank in accordance with—
 - (a) any Commission Regulation containing regulatory technical standards adopted by the European Commission under article 36.16 of the recovery and resolution directive, so far as they are retained EU law, or
 - (b) technical standards made under subsection (11)(b).
- (11) The Bank of England may make technical standards relating to—
 - (a) the methodology for assessing the value of the assets and liabilities of a bank for the purposes of a valuation under this section;
 - (b) the methodology for calculating and including a buffer for additional losses in the provisional valuation.”.

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Commencement Information

I11 Sch. 1 para. 11 in force at 31.12.2020 at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Exercise of powers: general

12. In section 7 (general conditions for exercise of stabilisation powers), in subsection (5E)(a) for “central banks” substitute “ the Bank of England ”.

Commencement Information

I12 Sch. 1 para. 12 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

13.—(1) Section 7A (effect on other group members, financial stability in EU etc) is amended as follows.

- (2) In the heading, for “EU” substitute “ UK ”.
- (3) In subsection (1)—
 - (a) in paragraph (b) for “EEA” substitute “ United Kingdom ”;
 - (b) in paragraph (c) for “European Union or of the EEA states” substitute “ United Kingdom ”.
- (4) In subsection (2)—
 - (a) in paragraph (b) for the words from “European” to “operating)” substitute “ United Kingdom ”;
 - (b) in paragraph (c)—
 - (i) for “third countries” in the first place it appears substitute “ countries other than the United Kingdom ”;
 - (ii) omit “third” in the second place it appears.

Commencement Information

I13 Sch. 1 para. 13 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

14. In section 8ZA (specific conditions: asset management vehicle), omit subsection (5).

Commencement Information

I14 Sch. 1 para. 14 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

The stabilisation options

- 15.—(1)** Section 11A (private sector purchaser: marketing) is amended as follows.
- (2) In subsection (5)(a) omit “or another EEA state”.
 - (3) After subsection (7) insert—

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“(8) The reference in subsection (7) to Regulation (EU) No 596/2014 is to that Regulation as it had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1394) were made.”.

Commencement Information

I15 Sch. 1 para. 15(3) in force at 21.12.2018 and Sch. 1 para. 15 in force otherwise at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(3\)\(b\)](#)

16. In section 12AA (bail-in: sequence of write-down and conversion of capital instruments and liabilities), in subsection (2), omit the definition of “normal insolvency proceedings”.

Commencement Information

I16 Sch. 1 para. 16 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Transfer of securities

17. In section 14 (interpretation: “securities”), in subsection (5)(b) for the words from “Regulation” to the end substitute “ the capital requirements regulation ”.

Commencement Information

I17 Sch. 1 para. 17 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Transfer of property

- 18.** In section 35 (transferable property), in subsection (1)—
- (a) in paragraph (d) at the end insert “ (including under legislation of the European Union) ”;
 - (b) in paragraph (e) omit “(including legislation of the European Union)”.

Commencement Information

I18 Sch. 1 para. 18 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Bail-in option

19.—(1) Section 48B (special bail-in provision) is amended as follows.

(2) In subsection (8)(g) for the words from “as referred” to the end substitute “ within the meaning of rule 3 of Part 152 (remuneration) of the PRA rulebook (other than persons deemed by virtue of rule 3.2 not to be material risk takers and notified to the PRA in accordance with rule 3.2). ”

(3) In subsection (8)(j) for the words from “Financial Services Compensation” to the end substitute “ FSCS in relation to levies imposed by the scheme manager under section 213(3)(b) of the Financial Services and Markets Act 2000. ”.

(4) In subsection (10), omit paragraph (b) (and the “and” before it).

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- (5) In subsection (12)(c)—
- (a) for “micro-enterprises, small enterprises or medium-sized enterprises” substitute “ micro, small and medium-sized enterprises ”;
 - (b) for “an EEA State” substitute “ the United Kingdom ”.
- (6) After subsection (13) insert—
- “(13A) The Treasury may by regulations made by statutory instrument make further provision in connection with the exercise of functions under subsection (10) (including provision about further circumstances in which functions under that subsection may or must be exercised).
- (13B) Regulations under subsection (13A) may—
- (a) amend subsections (12) and (13) by adding any provision;
 - (b) amend or revoke Commission Delegated Regulation (EU) 2016/860;
 - (c) amend that Regulation by adding, omitting or varying any provision (pending the revocation of the whole Regulation under paragraph (b).
- (13C) A statutory instrument containing regulations under subsection (13A) may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament.”.
- (7) In subsection (14)—
- (a) at the appropriate place insert—

““core business lines” means business lines and associated services which represent material sources of revenue, profit or franchise value for the bank or a group which includes the bank (or in the case of an instrument made in relation to a resolution company, of the resolution company);”;
 - (b) for the words from “ “micro-enterprise”” to the end substitute—

““micro, small and medium-sized enterprises” means micro, small and medium-sized enterprises as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2003/361/EC.”.
- (8) After subsection (14) insert—
- “(15) For the purposes of the definition of “core business lines”—
- (a) Article 7 of Commission Delegated Regulation (EU) 2016/778 (criteria relating to the determination of core business lines) applies, and
 - (b) “group” has the meaning given by section 3(2)(b).
- (16) The Treasury may by regulations made by statutory instrument specify criteria for the determination of the business lines and associated services referred to in the definition of “core business lines”.
- (17) The power conferred by subsection (16) includes—
- (a) power to amend or revoke Article 7 of Commission Delegated Regulation (EU) 2016/778; and
 - (b) power to amend or repeal subsection (15)(a).
- (18) A statutory instrument containing regulations under subsection (16) is subject to annulment in pursuance of a resolution of either House of Parliament.”.

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I19 Sch. 1 para. 19 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

20. In section 48C (meaning of “protected deposit”), in subsection (1) for the words from “a deposit” to the end substitute “ the FSCS ”.

Commencement Information

I20 Sch. 1 para. 20 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

21.—(1) In section 48D (general interpretation of section 48B), subsection (1) is amended as follows.

(2) In the definition of “credit institution” for “Article 2.5(2) to (23)” substitute “ Article 2.5(2), (3) or (23) ”.

^{F4}(3)

(4) In the definition of “investment firm”—

- (a) for “Regulation (EU) No 575/2013 of the European Parliament and of the Council” substitute “ the capital requirements regulation ”;
- (b) after “specified in” insert “ rules made by the FCA or PRA for the purpose of implementing ”.

Textual Amendments

F4 Sch. 1 para. 21(3) omitted (31.12.2020 immediately before IP completion day) by virtue of **The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710)**, **regs. 1(2), 17**; 2020 c. 1, **Sch. 5 para. 1(1)**

Commencement Information

I21 Sch. 1 para. 21 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

22.—(1) Section 48H (business reorganisation plans) is amended as follows.

(2) In subsection (1)—

- (a) omit the “and” after paragraph (a);
- (b) after paragraph (b) insert—
 - “; and
 - (c) submit to the Bank of England progress reports on the implementation of the plan at such intervals as the instrument may require.”.

(3) After subsection (7) insert—

“(7A) The Bank of England may make technical standards which—

- (a) require progress reports mentioned in subsection (1)(c) to include such matters as are specified in the technical standards; or

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- (b) otherwise relate to the content of those progress reports, so far as dealing with matters so specified.”.

Commencement Information

I22 Sch. 1 para. 22 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

Termination rights etc

23.—(1) Section 48Z (termination rights etc) is amended as follows.

(2) In subsection (1)—

^{F5}(a)

(b) in the definition of “crisis prevention measure”—

(i) omit the words from “has” to “Kingdom”;

(ii) in paragraph (a), for the words from “of a” to the end substitute “ under the Bank Recovery and Resolution (No 2) Order 2014 (SI 2014/3348) of a requirement to take relevant measures as described in article 15, 16, or 23 of that Order, ”;

(iii) in paragraph (b), for the words from “Article” to the end substitute “ section 3A, ”;

(iv) for paragraph (c) substitute—

“(c) the taking by the FCA or the PRA of a measure for early intervention under article 111 of the Bank Recovery and Resolution (No. 2) Order 2014.”;

(c) for the definition of “third-country institution” substitute—

““third-country institution” means an institution established in a country or territory other than the United Kingdom that would, if it were established within the United Kingdom, be regarded as a bank, building society, credit union or investment firm.”;

(d) after the definition of “third-country institution” insert—

““third-country parent financial holding company” means a parent financial holding company (within the meaning of Article 4.1(30) of the capital requirements regulation) established or formed under the law of a country or territory outside the United Kingdom;

“third-country parent institution” means a parent institution (within the meaning of Article 4.1(28) of the capital requirements regulation) established or formed under the law of a country or territory outside the United Kingdom;

“third-country parent mixed financial holding company” means a parent mixed financial holding company (within the meaning of Article 4.1(32) of the capital requirements regulation) established or formed under the law of a country or territory outside the United Kingdom.”;

(e) for the definition of “third-country parent undertaking” substitute—

““third-country parent undertaking” means a third-country parent institution, a third-country parent financial holding company or a third-country parent mixed financial holding company.”.

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Textual Amendments

- F5** Sch. 1 para. 23(2)(a) omitted (28.12.2020) by virtue of [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(2), **76(3)**

Commencement Information

- I23** Sch. 1 para. 23 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Independent valuer: valuation under section 6E or 48X

24.—(1) Section 62A (meaning of independent valuer in sections 6E and 48X) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (a) omit the words from “adopted” to “directive”;
- (b) in paragraph (b) for “have been adopted by the European Commission” substitute “ exist”.

(3) After subsection (2) insert—

“(2A) In subsection (2) “regulatory technical standards” means—

- (a) any Commission Regulation containing regulatory technical standards adopted by the European Commission under article 36.16 of the recovery and resolution directive, so far as they are retained EU law, or
- (b) technical standards made under subsection (2B).

(2B) The Bank of England may make technical standards specifying the circumstances in which for the purposes of this section a person is to be considered independent from the Bank of England and the bank to which the valuation relates.”.

Commencement Information

- I24** Sch. 1 para. 24 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Incidental functions

25. In section 70A (suspension of obligations), in subsection (7)—

- (a) in the definition of “eligible claim” omit the words from “or a” to the end;
- (b) in the definition of “eligible deposit” omit the words from “or a” to the end.

Commencement Information

- I25** Sch. 1 para. 25 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

26. In section 70C (suspension of termination rights), in subsection (6) omit the words from “and, where” to the end.

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Commencement Information

I26 Sch. 1 para. 26 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

27.—(1) Section 70D (suspension: general provisions) is amended as follows.

(2) In subsection (1), in the definition of “excluded person”—

(a) omit paragraph (b);

(b) in paragraph (c) omit “, EEA central counterparty”.

(3) In subsection (2) omit “, “EEA central counterparty””.

Commencement Information

I27 Sch. 1 para. 27 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

28. In section 75 (power to change law), in subsection (9), for the definition of “third-country institution” substitute—

““third-country institution” has the same meaning as in section 48Z;”.

Commencement Information

I28 Sch. 1 para. 28 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

Groups

29.—(1) Section 81AA (cases where mandatory write-down, conversion etc applies: banking group companies) is amended as follows.

(2) In subsection (2)(c)—

(a) in sub-paragraph (i) for “article 2.1(23) of the recovery and resolution directive” substitute “Article 4.1A of the capital requirements regulation”;

(b) in sub-paragraph (ii) for “Article 1.1(c) or (d) of that directive” substitute “subsection (2A).”.

(3) After subsection (2) insert—

“(2A) The entities covered by subsection (2)(c)(ii) are—

(a) an entity of any of the following kinds which is established in the United Kingdom—

(i) a financial holding company;

(ii) a mixed financial holding company;

(iii) a mixed-activity holding company;

(b) a UK parent financial holding company or a UK parent mixed financial holding company,

and expressions used in this subsection have the same meaning as in the capital requirements regulation.”.

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- (4) In subsection (3)(b) omit sub-paragraph (ii) (but not the “and” after it).
- (5) In subsection (4)(c) omit “, (6)”.
- (6) Omit subsection (6).
- (7) In subsection (8)(b) omit “or EU institution”.
- (8) In subsection (9) omit “, EU resolution authority, competent authority”.
- (9) In subsection (11)(c)—
 - (a) omit sub-paragraphs (i) and (ii);
 - (b) in sub-paragraph (iii), for the words from “neither” to “but” substitute “ the parent undertaking of the group is not a UK authorised person and ”.
- (10) In subsection (14)—
 - (a) omit the definitions of “competent authority”, “consolidating supervisor”, “EU institution” and “EU resolution authority”;
 - (b) in the definition of “financial institution”, for the words from “meaning” to the end substitute “ same meaning as in the capital requirements regulation ”.
 - (c) in the definition of “relevant third-country authority”, for the words from “has” to the end substitute “ means an authority in a country or territory other than the United Kingdom which has functions corresponding to those of the Bank of England, the FCA or the PRA, in relation to bank recovery and resolution ”.

Commencement Information

I29 Sch. 1 para. 29 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

30.—(1) Section 81B (sale to commercial purchaser and transfer to bridge bank) is amended as follows.

- (2) In subsection (2) omit paragraph (b).
- (3) In subsection (2A) omit “, EU resolution authority”.
- (4) In subsection (9)—
 - (a) omit the definitions of “EU institution” and “EU resolution authority”;
 - (b) in the definition of “relevant third-country authority”, for the words from “Article” to the end substitute “ section 81AA(14) ”.

Commencement Information

I30 Sch. 1 para. 30 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

31.—(1) Section 81ZBA (transfer to asset management vehicle) is amended as follows.

- (2) In subsection (2) omit paragraph (b).
- (3) In subsection (2A) omit “, EU resolution authority”.
- (4) In subsection (9), omit the definition of “normal insolvency proceedings”.

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I31 Sch. 1 para. 31 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

32. In section 81BA (bail-in option)—

- (a) in subsection (2) omit paragraph (b);
- (b) in subsection (2A) omit “, EU resolution authority”.

Commencement Information

I32 Sch. 1 para. 32 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

33. In section 81CA (section 81BA: supplemental), in subsection (5), omit “, EU institution”.

Commencement Information

I33 Sch. 1 para. 33 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

34. In section 81D (interpretation: “banking group company” etc), in subsection (1)—

- (a) omit “EU institution”;
- (b) for “81B(9)” substitute “ 81AA(14) ”.

Commencement Information

I34 Sch. 1 para. 34 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Appointment of investigators

35. In section 83ZD (appointment of person to carry out investigations in particular cases), in subsection (3)(b) for “gives” substitute “, immediately before [^{F6}IP completion day], gave”.

Textual Amendments

F6 Words in Sch. 1 para. 35 substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, **Sch. para. 10(b)(ii)**

Commencement Information

I35 Sch. 1 para. 35 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

36.—(1) Section 83ZE (investigations etc in support of foreign resolution authorities) is amended as follows.

(2) In subsection (3)—

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) omit paragraph (a) (with the “or” after it);
 - (b) in paragraph (b), for the words from “those” to the end substitute “ the stabilisation powers of the Bank of England under this Part. ”.
- (3) Omit subsections (5), (8) and (9).
- (4) In subsection (10)—
- (a) omit paragraph (a) (with the “or” after it);
 - (b) in paragraph (b)—
 - (i) for the words from “territory” to “state” substitute “ country or territory outside the United Kingdom ”;
 - (ii) for “(2)(b)” substitute “ (3)(b) ”.

Commencement Information

I36 Sch. 1 para. 36 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

Enforcement of relevant requirements

37. In section 83ZY (publication of information relating to certain Bank of England decisions etc), in subsection (10) omit paragraph (b) (with the “and” preceding it).

Commencement Information

I37 Sch. 1 para. 37 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

38. In section 83ZZ (co-operation), in paragraph (c) for “giving” substitute “ which, immediately before [^{F7}IP completion day], gave ”.

Textual Amendments

F7 Words in Sch. 1 para. 38 substituted (30.12.2020) by **The Financial Services and Economic and Monetary Policy (Consequential Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1301)**, regs. 1, 3, **Sch. para. 10(b)(iii)**

Commencement Information

I38 Sch. 1 para. 38 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

Special cases

39.—(1) In Section 83A (Modifications of Part 1), the Table of modifications of Part 1 (in its application to an FCA-regulated bank) is amended as follows.

(2) At the beginning insert—

“Section 3

Treat the definition of “normal insolvency proceedings” in subsection (1) as including investment bank special administration established by the Investment Bank Special Administration Regulations 2011 (S.I. 2011/245).”.

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In the entry for section 8ZA omit paragraph (b).
- (4) Omit the entry for section 12AA.
- (5) In the entry for section 81ZBA omit paragraph (c).
- (6) Omit the entry for section 89H.

Commencement Information

I39 Sch. 1 para. 39 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

40. In section 89A (application of Part 1 to investment firms), in subsection (1), in the Table, in the entry for section 12AA, for the words in column 2 substitute “References to normal insolvency proceedings do not include a reference to the bank insolvency procedure.”.

Commencement Information

I40 Sch. 1 para. 40 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

Third-country resolution actions

- 41.—**(1) Section 89H (recognition of third-country resolution actions) is amended as follows.
- (2) In subsection (4)—
 - (a) in paragraph (a) omit “or another EEA state”;
 - (b) in paragraph (c)—
 - (i) for “an EEA state” substitute “the United Kingdom”;
 - (ii) for “EEA state” substitute “United Kingdom”;
 - (iii) omit the word “third” before “country concerned”;
 - (c) in paragraph (e) omit “or contrary to a provision of EU law”.
 - (3) Omit subsection (6).
 - (4) In subsection (7)—
 - (a) omit the definitions of “EU institution” and “normal insolvency proceedings”;
 - (b) for the definition of “third-country institution” substitute—

““third-country institution” means an institution established in a country or territory other than the United Kingdom that would, if it were established within the United Kingdom, be regarded as a bank, building society, credit union or investment firm;”;
 - (c) for the definition of “third-country parent undertaking” for the words from “has” to the end substitute “means a parent undertaking, parent financial holding company or a parent mixed financial holding company established in a country or territory outside the United Kingdom;”;
 - (d) in the definition of “third-country resolution action”—
 - (i) in the opening words, for “law of a third country” substitute “law of a country or territory outside the United Kingdom” and for “an EU institution” substitute “a bank, building society, credit union or investment firm,”;

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) in paragraph (a) for “EU institution” substitute “ a bank, building society, credit union or investment firm ”;
- (iii) in paragraph (b) for “third country” substitute “ country or territory concerned ”;
- (e) omit the definition of “third country”.

Commencement Information

I41 Sch. 1 para. 41 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

42.—(1) Section 89I (effect of recognition of third-country resolution action by the Bank of England) is amended as follows.

(2) In subsection (6), in the modified subsection (9A), for “third country” substitute “ country or territory ”;

(3) In subsection (9)—

- (a) in the modified subsection (3), after “United Kingdom and the”, for “third-country” substitute “ country or territory ”;
- (b) in the modified subsection (3A) for “ “third-country group company” and “third country”” substitute “and “third-country group company””.

^{F8}(4)

Textual Amendments

F8 Sch. 1 para. 42(4) omitted (8.7.2021) by virtue of The Payment and Electronic Money Institution Insolvency Regulations 2021 (S.I. 2021/716), **regs. 2, 49(1)**

Commencement Information

I42 Sch. 1 para. 42 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

Resolution of UK branches of third-country institutions

43. Section 89JA (resolution of UK branches of third-country institutions) is amended as follows.

Commencement Information

I43 Sch. 1 para. 43 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

44. In subsection (2)(c) for the words from “meaning” to “directive” substitute “ same meaning as in section 89H ”.

Commencement Information

I44 Sch. 1 para. 44 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 45.**—(1) The modified version of section 6E substituted by subsection (4) is amended as follows.
- (2) In subsection (5) omit the words from “(within” to “directive)”.
- (3) After subsection (5) insert—
- “(5A) In subsection (5)(b) “relevant third-country authority” means an authority in a country or territory outside the United Kingdom that has functions corresponding to the stabilisation powers of the Bank of England, the FCA or the PRA.”.
- (4) For subsection (6) substitute—
- “(6) The valuation carried out under this section must follow the methodology specified in—
- (a) any Commission Regulation containing regulatory technical standards adopted by the European Commission under article 36.16 of the recovery and resolution directive, so far as they are retained EU law, or
- (b) technical standards made under subsection 12(a).”.
- (5) In subsection (8) for “third country” substitute “ country or territory outside the United Kingdom ”.
- (6) For subsection (11) substitute—
- “(11) A provisional valuation carried out under subsection (1) must make provision in respect of additional losses by the third-country institution in accordance with—
- (a) any Commission Regulation containing regulatory technical standards adopted by the European Commission under article 36.16 of the recovery and resolution directive, so far as they are retained EU law, or
- (b) technical standards made under subsection (12)(b).
- (12) The Bank of England may make technical standards relating to—
- (a) the methodology for assessing the value of the assets and liabilities of a branch for the purposes of a valuation under this section;
- (b) the methodology for calculating and including a buffer for additional losses in the provisional valuation.”.

Commencement Information

I45 Sch. 1 para. 45 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

- 46.**—(1) The modified version of section 7 substituted by subsection (5) is amended as follows.
- (2) In subsection (4)(a) for “EEA” substitute “ UK ”.
- (3) In subsection (9) for the definitions of “EEA creditor” and “normal insolvency proceedings” substitute—
- ““UK creditor”, in relation to a third-country institution, means a creditor of the institution who—
- (a) in the case of an individual, is ordinarily resident in the United Kingdom; and
- (b) in the case of a body corporate or unincorporated association, has its head office in the United Kingdom.”.

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I46 Sch. 1 para. 46 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

- 47.**—(1) The modified version of section 7A substituted by subsection (6) is amended as follows.
- (2) In paragraph (b), for the words from “European” to “operating)” substitute “ United Kingdom ”;
- (3) In paragraph (c)—
- (a) for “third country” (in the first place it appears) substitute “ country or territory ”;
- (b) for the words “third country (as defined in section 89H(7))” substitute “ country or territory (other than the United Kingdom) ”.

Commencement Information

I47 Sch. 1 para. 47 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

- 48.**—(1) The modified version of section 48B substituted by subsection (8) is amended as follows.
- (2) In subsection (10)—
- (a) in paragraph (f)(ii) for “as referred” to the end substitute “ within the meaning of rule 3 of Part 152 (remuneration) of the PRA rulebook (other than persons deemed by virtue of rule 3.2 not to be material risk takers and notified to the PRA in accordance with rule 3.2). ”;
- (b) in paragraph (i), for the words from “Financial Services Compensation” to the end substitute “ the FSCS in relation to levies imposed by the scheme manager under section 213(3)(b) or (4) of the Financial Services and Markets Act 2000 ”.
- (3) In subsection (12) omit paragraph (b) (and the “and” before it).
- (4) In subsection (14)(c)—
- (a) for “an EEA state” substitute “ the United Kingdom ”;
- (b) for “micro-enterprises, small enterprises or medium-sized enterprises” substitute “ micro, small and medium-sized enterprises ”.
- (5) In subsection (15) for “third country” substitute “ country or territory outside the United Kingdom ”;
- (6) In subsection (17)—
- (a) at the appropriate place insert—
- ““core business lines” means business lines and associated services which represent material sources of revenue, profit or franchise value for the third-country institution or its UK branch (or in the case of an instrument made in relation to a resolution company, of the resolution company);”;
- (b) for the words from “ “micro-enterprise”” to the end substitute—
- ““micro, small and medium-sized enterprises” means micro, small and medium-sized enterprises as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2003/361/EC.”.
- (7) After subsection (17) insert—

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(17A) For the purposes of the definition of “core business lines” Article 7 of Commission Delegated Regulation (EU) 2016/778 (criteria relating to the determination of core business lines) applies.

(17B) The Treasury may by regulations made by statutory instrument specify criteria for the determination of the business lines and associated services referred to in the definition of “core business lines”.

(17C) The power conferred by subsection (16) includes—

- (a) power to amend or revoke Article 7 of Commission Delegated Regulation (EU) 2016/778; and
- (b) power to amend or repeal subsection (17A).

(17D) A statutory instrument containing regulations under subsection (17B) is subject to annulment in pursuance of a resolution of either House of Parliament.”.

Commencement Information

I48 Sch. 1 para. 48 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

49.—(1) In the Table of further modifications in subsection (11), column 2 is amended as follows.

(2) In the entry relating to section 44C(4), for “third country” substitute “country or territory outside the United Kingdom”.

(3) In the entry relating to section 60(3)(b) for “third country” substitute “country or territory outside the United Kingdom”;

(4) In the entry relating to section 60B(4) for “third country” substitute “country or territory outside the United Kingdom”;

(5) In the entry relating to section 63(1A) for “third country” substitute “country or territory outside the United Kingdom”.

Commencement Information

I49 Sch. 1 para. 49 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

General provisions

50. In section 89K (insolvency proceedings), in subsection (3)(f) for the words from “2.15” to the end substitute “4.1(21) of the capital requirements regulation.”.

Commencement Information

I50 Sch. 1 para. 50 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Bank Insolvency

51. In section 120A (notice to the regulators and the Bank of England of preliminary steps), in subsection (2) for the words from “2.15” to the end substitute “4.1(21) of the capital requirements regulation (within the meaning of section 3).”.

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I51 Sch. 1 para. 51 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Payment Systems

52. In section 206B (international obligations), in subsection (1) for “EU obligations or any other” substitute “ any ”.

Commencement Information

I52 Sch. 1 para. 52 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Miscellaneous provisions

53. In section 251 (financial assistance to building societies), in subsection (1)—

- (a) after paragraph (a) insert “ or ”;
- (b) omit paragraphs (c) and (d).

Commencement Information

I53 Sch. 1 para. 53 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

General

54. In section 258A (“investment firm”), in subsection (1) at the end insert “ as it [^{F9}forms part of retained EU law]”.

Textual Amendments

F9 Words in Sch. 1 para. 54 substituted (31.12.2020 immediately before IP completion day) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), [reg. 1\(4\)](#), **Sch. para. 1(1)(2)(k)(i)**

Commencement Information

I54 Sch. 1 para. 54 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

55.—(1) In section 259 (statutory instruments), in subsection (3), the Table is amended as follows.

(2) After the row relating to the meaning of “bank” insert—

“2(A)	Criteria for determining what Negative resolution” are critical functions
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(3) After the row relating to the protection of interests insert—

Status: Point in time view as at 08/07/2021.

Changes to legislation: The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“48B(13A)	Further provision connected with functions under section 48B(10)	Draft affirmative resolution
48B(16)	Criteria for determining what are core business lines	Negative resolution”.

(4) After the row relating to recognised central counterparty compensation orders insert—

“89JA(8) section 48B(17B))	(modified Criteria for determining what are core business lines	Negative resolution”.
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Commencement Information

I55 Sch. 1 para. 55 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

56.—(1) In section 261 (index of defined terms), the Table is amended as follows.

(2) For the entry relating to the FSCS substitute—

“FSCS (in Part 1)	3
FSCS (in Part 2)	93”.

(3) At the appropriate place insert—

“Normal insolvency proceedings (in Part 1)	3”.
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Commencement Information

I56 Sch. 1 para. 56 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

Status:

Point in time view as at 08/07/2021.

Changes to legislation:

The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 10 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.