

SCHEDULE 5

Regulation 7

Amendments of Retained Direct EU legislation

Amendment of Commission Delegated Regulation (EU) 2016/778

- 1.—(1) Commission Delegated Regulation (EU) 2016/778 is amended as follows.
- (2) In Article 1 (subject matter)—
 - (a) omit paragraph (a);
 - (b) in paragraph (b) for the words from “point (35)” to the end substitute “the definition of “critical functions” in section 3(1) of the Banking Act 2009 (including as applied by that Act in relation to persons other than a bank)”;
 - (c) in paragraph (c) for the words from “point (36)” to the end substitute “the definition of “core business lines” in section 48B(14) of the Banking Act 2009 (including as applied in relation to other persons by that Act)”;
 - (d) omit the words from “Those rules” to the end.
- (3) In Article 2 (definitions) at the end insert—
 - “(4) ‘resolution authority’ means the Bank of England;
 - (5) ‘institution’ has the meaning given in section 3A(8) of the Banking Act 2009;
 - (6) ‘group’ has the meaning given in section 3(2)(b) of the Banking Act 2009.”.
- (4) Omit Chapter II (deferral of ex post contributions).
- (5) In Article 6 (criteria relating to the determination of critical functions), in paragraph (2), in point (b), for “, national or European” substitute “or national”.
- (6) After Article 8 omit the sentence beginning “This regulation shall be binding”.

Amendment of Commission Delegated Regulation (EU) 2016/860

- 2.—(1) Commission Delegated Regulation (EU) 2016/860 is amended as follows.
- (2) In Article 1 (subject matter)—
 - (a) in paragraph 1 for the words from “Article 44(3)” to the end substitute “section 48B of the Banking Act 2009 (including as applied by sections 81CA, 83A, 84, 89A and 89JA of that Act), where the Bank of England may in a resolution instrument or a property transfer instrument exclude any eligible liability or class of eligible liabilities from the application of any special bail-in provision”; and
 - (b) omit paragraph 2.
- (3) Omit Article 2 (scope).
- (4) In Article 3 (definitions)—
 - (a) in paragraph (1) for “imminent” substitute “immediate future”;
 - (b) at the end insert—
 - “(3) ‘Institution’ has the meaning given in section 3A(8) of the Act.
 - (4) ‘The resolution authority’ means the Bank of England.
 - (5) ‘The Act’ means the Banking Act 2009.
 - (6) ‘Bail-in’ means special bail-in provision within the meaning of section 48B of the Act and ‘bail-in tool’ means the power to make such provision.

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(7) ‘Conditions for early intervention’ means the conditions specified in section 71D of the Financial Services and Markets Act 2000.”.

- (5) In Article 4—
- (a) omit paragraph 1;
 - (b) in paragraph 2 for “pursuant to Article 44(3) of [Directive 2014/59/EU](#)” substitute “under section 48B(10) of the Act”;
 - (c) in paragraphs 3 and 4 for “Article 44(3) of [Directive 2014/59/EU](#)” in both cases substitute “section 48B(10) of the Act”;
 - (d) in paragraph 4 omit the second sentence;
 - (e) in paragraph 5—
 - (i) for “Article 44(3) of [Directive 2014/59/EU](#)” substitute “section 48B(10) of the Act”;
 - and
 - (ii) for “described under Article 31(2) of that Directive” substitute “set out in section 4 of the Act”;
 - (f) in paragraph 6—
 - (i) for “pursuant to Article 44(3) of [Directive 2014/59/EU](#)” substitute “under section 48B(10) of the Act”; and
 - (ii) for “resolution fund” substitute “Consolidated Fund or the National Loans Fund”;
 - (g) in paragraph 7—
 - (i) for “Article 44(3)” in both cases substitute “section 48B(10) of the Act”; and
 - (ii) for “resolution fund” substitute “Consolidated Fund or the National Loans Fund”;
 - (h) in paragraph 8—
 - (i) in the opening words, for “Article 44(3)(a) of [Directive 2014/59/EU](#)” substitute “section 48B(10) of the Act on the ground set out in section 48B(12)(a) of the Act”;
 - (ii) in the opening words, for “resolution fund” substitute “Consolidated Fund or the National Loans Fund”; and
 - (iii) in sub-paragraph (b) for “Article 36 of [Directive 2014/59/EU](#)” substitute “section 6E of the Act”;
 - (i) in paragraph 9, in the opening words—
 - (i) for “Article 44(3)(b) of [Directive 2014/59/EU](#)” substitute “section 48B(10) of the Act on the ground set out in section 48B(12)(b) of the Act”; and
 - (ii) for “resolution fund” substitute “Consolidated Fund or the National Loans Fund”;
 - (j) in paragraph 10—
 - (i) in the opening words, for “Article 44(3)(c) of [Directive 2014/59/EU](#)” substitute “section 48B(10) of the Act on the ground set out in section 48B(12)(c) of the Act”;
 - (ii) in the opening words, for “resolution fund” substitute “Consolidated Fund or the National Loans Fund”; and
 - (iii) in sub-paragraph (b), for “Article 44(3)(c) of [Directive 2014/59/EU](#)” substitute “section 48B(12)(c) of the Act”;
 - (k) in paragraph 11—
 - (i) for “Article 44(3)(d) of [Directive 2014/59/EU](#)” substitute “section 48B(10) of the Act on the ground set out in section 48B(12)(d) of the Act”; and
 - (ii) for “resolution fund” substitute “Consolidated Fund or the National Loans Fund”.

- (6) In Article 5 (exclusion on grounds of impossibility to bail-in under Article 44(3)(a) of [Directive 2014/59/EU](#))—
- (a) in the heading for “Article 44(3)(a) of [Directive 2014/59/EU](#)” substitute “section 48B(12) (a) of the Banking Act 2009”;
 - (b) in paragraph 1 for “Resolution authorities” substitute “The resolution authority”;
 - (c) in paragraph 2—
 - (i) for “resolution authorities” substitute “the resolution authority”; and
 - (ii) for “Articles 36 and 49 of [Directive 2014/59/EU](#)” substitute “section 6E of the Act”.
- (7) In Article 6 (reasonable time)—
- (a) in paragraph 1—
 - (i) for “under Article 44(3)(a) of [Directive 2014/59/EU](#)” substitute “on the ground specified in section 48B(12)(a) of the Act”;
 - (ii) for “authorities” substitute “authority”; and
 - (b) in paragraph 2 for “authorities” substitute “authority”.
- (8) In Article 7 (exclusion on grounds of preservation of certain critical functions and core business lines under Article 44(3)(b) of [Directive 2014/59/EU](#))—
- (a) in the heading for “Article 44(3)(b) of [Directive 2014/59/EU](#)” substitute “section 48B(12) (b) of the Banking Act 2009”;
 - (b) in paragraphs 1 to 5 for “Resolution authorities” in each case substitute “The resolution authority”; and
 - (c) in paragraph 5 for the words from “points” to the end substitute “section 4(3A) and (4) of the Act”.
- (9) In Article 8 (exclusion on grounds of avoidance of widespread contagion under Article 44(3) (c) of [Directive 2014/59/EU](#))—
- (a) in the heading for “Article 44(3)(c) of [Directive 2014/59/EU](#)” substitute “section 48B(12) (c) of the Banking Act 2009”;
 - (b) in paragraphs 1 and 2 for “Article 44(3)(c) of [Directive 2014/59/EU](#)” in both cases substitute “section 48B(10) of the Act on the ground specified in section 48B(12)(c) of the Act”;
 - (c) in paragraph 1 for “resolution authorities” substitute “the resolution authority”; and
 - (d) in paragraph 2— in point (g) for “pursuant to Article 32(4) of [Directive 2014/59/EU](#)” substitute “specified in section 7(5C) of the Act”.
- (10) In Article 9 (exclusion on grounds of avoidance of a decrease in value under Article 44(3) (d) of [Directive 2014/59/EU](#))—
- (a) in the heading for “Article 44(3)(d) of [Directive 2014/59/EU](#)” substitute “section 48B(12) (d) of the Banking Act 2009”;
 - (b) in paragraph 1 for “Resolution authorities” substitute “The resolution authority”; and
 - (c) in paragraph 2—
 - (i) for “resolution authorities” substitute “the resolution authority”;
 - (ii) for the words from “Article 36(16)” to the end substitute—
 - “—
 - (a) any regulatory technical standards referred to in section 6E(10)(a) and 62A(2A)(a) of the Act or any regulatory technical standards contained in a Commission Regulation adopted by the European Commission under

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Article 49(5) of [Directive 2014/59/EU](#) so far as they are retained EU law;
and

- (b) any technical standards made under section 6E(11) or 62A(2B) of the Act or article 158(3) of the Bank Recovery and Resolution (No. 2) Order 2014.”.

- (11) After Article 10 omit the sentence beginning “This regulation shall be binding”.