

SCHEDULES

SCHEDULE 17

Section 106

AMENDMENTS OF BANKING ACT 2009 RELATED TO PART 2 OF THIS ACT

PART 1

AMENDMENTS OF PART 1 OF THE ACT

- 1 Part 1 of the Banking Act 2009 is amended as follows.
- 2 (1) Section 1 (overview) is amended as follows.
- (2) In subsection (5), for paragraph (c) and the “and” before it, substitute—
- “(c) the Prudential Regulation Authority, and
(d) the Financial Conduct Authority.”
- (3) In the Table, after the entry relating to sections 82 and 83, insert—
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|--------------|----------------------------------|
| “Section 83A | Banks not regulated by the PRA”. |
|--------------|----------------------------------|
- 3 In section 2 (interpretation: “bank”), for “Part 4” substitute “Part 4A”.
- 4 In section 3 (interpretation: other expressions), for the definition of “the FSA” and the “and” following it, substitute—
- ““the PRA” means the Prudential Regulation Authority,
“the FCA” means the Financial Conduct Authority, and”.
- 5 In section 4 (special resolution objectives), in subsection (3), for paragraph (b) and the “and” following it, substitute—
- “(b) the PRA,
(ba) the FCA, and”.
- 6 In section 5 (code of practice), in subsection (5), for paragraph (b) and the “and” following it, substitute—
- “(b) the PRA,
(ba) the FCA, and”.
- 7 (1) Section 6 (code of practice: procedure) is amended as follows.
- (2) Omit subsections (1) and (2).
- (3) For subsection (4) substitute—
- “(4) Before re-issuing the code of practice the Treasury must consult—
- (a) the PRA,
(b) the FCA,
(c) the Bank of England, and

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- (d) the scheme manager of the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000).
- (5) As soon as is reasonably practicable after re-issuing the code of practice the Treasury shall lay a copy before Parliament.”
- 8 (1) Section 7 (general conditions) is amended as follows.
- (2) In subsection (1), for “FSA” substitute “PRA”.
- (3) In subsection (2), omit the words from “(within” to the end.
- (4) In subsection (4), for “FSA” substitute “PRA”.
- (5) After that subsection insert—
- “(4A) The threshold conditions” means the threshold conditions, as defined by subsection (1) of section 55B of the Financial Services and Markets Act 2000, for which the PRA is treated as responsible under subsection (2) of that section.”
- (6) In subsection (5)—
- (a) for “FSA” substitute “PRA”, and
- (b) at the end of paragraph (a) insert—
- “(aa) the FCA,”.
- 9 In section 8 (specific conditions: private sector purchaser and bridge bank), in subsection (3), for paragraph (a) and the “and” following it, substitute—
- “(a) the PRA,
- (aa) the FCA, and”.
- 10 In section 9 (specific conditions: temporary public ownership), in subsection (4), for paragraph (a) and the “and” following it, substitute—
- “(a) the PRA,
- (aa) the FCA, and”.
- 11 In section 10 (Banking Liaison Panel), in subsection (3), for paragraph (c) substitute—
- “(c) a member appointed by the PRA,
- (ca) a member appointed by the FCA,”.
- 12 In section 24 (procedure: instruments), in subsection (1), for paragraph (c) and the “and” following it, substitute—
- “(c) the PRA,
- (ca) the FCA, and”.
- 13 In section 25 (procedure: orders), in subsection (2), for paragraph (c) and the “and” following it, substitute—
- “(c) the PRA,
- (ca) the FCA, and”.
- 14 In section 26 (supplemental instruments), in subsection (5), for paragraph (a) and the “and” following it, substitute—
- “(a) the PRA,
- (aa) the FCA, and”.

- 15 In section 27 (supplemental orders), in subsection (5), for paragraph (a) and the “and” following it, substitute—
 “(a) the PRA,
 (aa) the FCA, and”.
- 16 In section 28 (onward transfer), in subsection (6), for paragraph (a) and the “and” following it, substitute—
 “(a) the PRA,
 (aa) the FCA, and”.
- 17 In section 29 (reverse share transfer), in subsection (6), for paragraph (a) and the “and” following it, substitute—
 “(a) the PRA,
 (aa) the FCA, and”.
- 18 In section 30 (bridge bank: share transfers), in subsection (5), for paragraph (a) and the “and” following it, substitute—
 “(a) the PRA,
 (aa) the FCA, and”.
- 19 In section 31 (bridge bank: reverse share transfer), in subsection (5), for paragraph (a) and the “and” following it, substitute—
 “(a) the PRA,
 (aa) the FCA, and”.
- 20 In section 41 (procedure), in subsection (1), for paragraph (c) and the “and” following it, substitute—
 “(c) the PRA,
 (ca) the FCA, and”.
- 21 In section 42 (supplemental instruments), in subsection (5), for paragraph (a) and the “and” following it, substitute—
 “(a) the PRA,
 (aa) the FCA, and”.
- 22 In section 43 (onward transfer), in subsection (7), for paragraph (a) and the “and” following it, substitute—
 “(a) the PRA,
 (aa) the FCA, and”.
- 23 In section 44 (reverse property transfer), in subsection (6), for paragraph (a) and the “and” following it, substitute—
 “(a) the PRA,
 (aa) the FCA, and”.
- 24 In section 45 (temporary public ownership: property transfer), in subsection (8), for paragraph (a) and the “and” following it, substitute—
 “(a) the PRA,
 (aa) the FCA, and”.
- 25 In section 46 (temporary public ownership: reverse property transfer), in subsection (7), for paragraph (a) and the “and” following it, substitute—
 “(a) the PRA,
 (aa) the FCA, and”.

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- 26 In section 57 (valuation principles), in subsection (4)(a), for “Part 4” substitute “Part 4A”.
- 27 (1) Section 82 (temporary public ownership) is amended as follows.
- (2) In subsection (2), for “the FSA are” substitute “the PRA is”.
- (3) In subsection (5), for paragraph (a) and the “and” following it, substitute—
- “(a) the PRA,
 (aa) the FCA, and”.
- 28 After section 83 insert—

“Banks not regulated by PRA

83A Modifications of Part

- (1) In the application of this Part to an FCA-regulated bank the modifications specified in the Table apply.
- (2) In this section—
- “FCA-regulated bank” means a bank which does not carry on any activity which is a PRA-regulated activity for the purposes of the Financial Services and Markets Act 2000;
- “immediate group” has the meaning given by section 421ZA of the Financial Services and Markets Act 2000;
- “PRA-authorized person” has the meaning given by section 2B(5) of that Act.

TABLE OF MODIFICATIONS

| <i>Provision</i> | <i>Modification</i> |
|------------------|--|
| Section 7 | (a) Treat the references to the PRA in subsections (1), (4), (4A) and (5) as references to the FCA. (b) Ignore subsection (5)(aa). (c) If the bank has as a member of its immediate group a PRA-authorized person the FCA must consult the PRA before determining whether or not Condition 2 is met. |
| Section 8 | Subsection (3)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 9 | Subsection (4)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 24 | Ignore subsection (1)(c). |
| Section 25 | Ignore subsection (2)(c). |
| Section 26 | Subsection (5)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 26A | Subsection (6)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |

Status: This is the original version (as it was originally enacted).

| <i>Provision</i> | <i>Modification</i> |
|------------------|---|
| Section 27 | Subsection (5)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 28 | Subsection (6)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 29 | Subsection (6)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 30 | Subsection (5)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 31 | Subsection (5)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 41 | Ignore subsection (1)(c). |
| Section 42 | Subsection (5)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 42A | Subsection (6)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 43 | Subsection (7)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 44 | Subsection (6)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 45 | Subsection (8)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 46 | Subsection (7)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person. |
| Section 81B | (a) Treat the reference to the PRA in subsection (2) as a reference to the FCA. (b) Ignore subsection (6)(b). |
| Section 82 | (a) Treat the reference to the PRA in subsection (2) as a reference to the FCA. (b) Ignore subsection (5)(a).” |

PART 2

AMENDMENTS OF PART 2 OF THE ACT

- 29 Part 2 of the Banking Act 2009 is amended as follows.
- 30 In section 91 (interpretation: “bank”), for “Part 4” substitute “Part 4A”.
- 31 In section 93 (interpretation: other expressions), for subsection (1) substitute—
- “(1) In this Part—
- (a) “the PRA” means the Prudential Regulation Authority, and
- (b) “the FCA” means the Financial Conduct Authority.”
- 32 In section 95 (application), in subsection (1)(b), for “FSA” substitute “PRA”.

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- 33 In section 96 (grounds for applying), for “FSA”, in each place, substitute “PRA”.
- 34 In section 97 (grounds for making), in subsection (1), for “FSA” substitute “PRA”.
- 35 In section 98 (commencement), in subsection (2), for “FSA”, in both places, substitute “PRA”.
- 36 (1) Section 100 (liquidation committee) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) The liquidation committee is to consist initially of—
- (a) two individuals nominated by the Bank of England,
- (b) one individual nominated by the PRA,
- (c) one individual nominated by the FCA, and
- (d) one individual nominated by the FSCS.”
- (3) In subsection (6)(c), for “and the FSA” substitute “, the PRA and the FCA”.
- 37 In section 101 (liquidation committee: supplemental), in subsection (7), for “FSA” substitute “PRA, the FCA”.
- 38 In section 103 (general powers, duties and effect), in the Table—
- (a) in the entry relating to section 147 of the Insolvency Act 1986, for “FSA” substitute “PRA”, and
- (b) in the entry relating to section 241 of that Act, for “FSA” substitute “PRA”.
- 39 (1) Section 108 (removal by court) is amended as follows.
- (2) In subsection (1)(b), for “FSA” substitute “PRA”.
- (3) In subsection (2)—
- (a) for “FSA” substitute “PRA”, and
- (b) after “England” insert “and the FCA”.
- (4) In subsection (3), for “FSA” substitute “PRA and the FCA”.
- 40 In section 109 (removal by creditors), in subsection (4) for “and the FSA” substitute “, the PRA and the FCA”.
- 41 In section 113 (company voluntary arrangement), in subsection (2)(b), for sub-paragraph (i) substitute—
- “(i) the PRA,
- (ia) the FCA.”
- 42 In section 115 (dissolution), in subsection (2)(b), for sub-paragraph (i) substitute—
- “(i) the PRA,
- (ia) the FCA.”
- 43 In section 117 (bank insolvency as alternative order), in subsection (2)(a)—
- (a) for “FSA” substitute “PRA”, and
- (b) after “England” insert “and the FCA”.
- 44 (1) Section 120 (notice of preliminary steps) is amended as follows.
- (2) For “FSA”, in each place (including the heading), substitute “PRA”.
- (3) In subsection (6), after “filed” insert “(in Scotland, lodged)”.

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(4) In subsection (10), in paragraph (a), after “England” insert “and the FCA”.

45 After section 129 insert—

“129A Banks not regulated by PRA

(1) In the application of this Part to an FCA-regulated bank the modifications specified in the Table apply.

(2) In this section—

“FCA-regulated bank” means a bank which does not carry on any activity which is a PRA-regulated activity for the purposes of the Financial Services and Markets Act 2000;

“immediate group” has the meaning given by section 421ZA of the Financial Services and Markets Act 2000;

“PRA-authorised person” has the meaning given by section 2B(5) of that Act.

TABLE OF MODIFICATIONS

| <i>Provision</i> | <i>Modification</i> |
|------------------|---|
| Section 95 | Treat the reference to the PRA in subsection (1) as a reference to the FCA. |
| Section 96 | (a) Treat the references to the PRA in subsections (2) and (3) as references to the FCA. (b) If the bank has as a member of its immediate group a PRA-authorised person the Bank of England must consult the PRA before applying for a bank insolvency order. (c) The FCA must consult the PRA before applying for a bank insolvency order. |
| Section 97 | Treat the reference to the PRA in subsection (1) as a reference to the FCA. |
| Section 98 | Treat the references to the PRA in subsection (2) as references to the FCA. |
| Section 100 | (a) Treat the reference to two individuals in subsection (2)(a) as a reference to one individual. (b) Ignore subsection (2)(b). (c) Ignore the reference to the PRA in subsection (6)(c). |
| Section 101 | Ignore the reference to the PRA in subsection (7). |
| Section 103 | In the Table, in the entries relating to sections 147 and 241 of the Insolvency Act 1986, treat the reference to the PRA as a reference to the FCA. |
| Section 108 | (a) Treat the reference to the PRA in subsections (1) and (2) as a reference to the FCA. (b) Ignore the duty to consult the FCA in subsection (2). |

Status: This is the original version (as it was originally enacted).

| <i>Provision</i> | <i>Modification</i> |
|------------------|---|
| | (c) Ignore the reference to the PRA in subsection (3). |
| Section 109 | Ignore the reference to the PRA in subsection (4). |
| Section 113 | Ignore subsection (2)(b)(i). |
| Section 115 | Ignore subsection (2)(b)(i). |
| Section 117 | (a) Treat the reference to the PRA in subsection (2) as a reference to the FCA. (b) Ignore the duty to obtain the consent of the FCA in subsection (2)(a). |
| Section 120 | (a) Treat the references to the PRA in subsections (5), (7) and (10) as references to the FCA. (b) Ignore the duty to inform the FCA in subsection (10)(a)." |

PART 3

AMENDMENTS OF PART 3 TO THE ACT

- 46 Part 3 of the Banking Act 2009 is amended as follows.
- 47 In section 147 (administrator's proposals), in subsection (6), for "FSA" substitute "PRA and a copy of it to the FCA".
- 48 In section 153 (successful rescue), in subsection (3), for "FSA" substitute "PRA and the FCA".
- 49 In section 157 (other processes), in subsection (1), for "Before exercising an insolvency power in respect of a residual bank the FSA" substitute "Before the PRA or the FCA exercises an insolvency power in respect of a residual bank, whichever of them is exercising the power".
- 50 After section 157 insert—

"157A Banks not regulated by PRA

- (1) In the application of this Part to an FCA-regulated bank the modifications specified in the Table apply.
- (2) In this section "FCA-regulated bank" means a bank which does not carry on any activity which is a PRA-regulated activity for the purposes of the Financial Services and Markets Act 2000.

TABLE OF MODIFICATIONS

| <i>Provision</i> | <i>Modification</i> |
|------------------|--|
| Section 147 | The bank administrator must send the statement to the FCA (and need not send a copy of it to the PRA). |
| Section 153 | Ignore the reference to the PRA in subsection (3). |
| Section 157 | Ignore the reference to the PRA in subsection (1)." |

Status: This is the original version (as it was originally enacted).

- 51 In section 166 (interpretation: general), for subsection (2) substitute—
- “(2) In this Part—
- “the FCA” means the Financial Conduct Authority, and
- “the PRA” means the Prudential Regulation Authority.”

PART 4

AMENDMENTS OF PARTS 4 TO 6 OF THE ACT

- 52 Parts 4 to 6 of the Banking Act 2009 are amended as follows.
- 53 (1) Section 183 (interpretation of Part 5) is amended as follows.
- (2) In paragraph (c)—
- (a) for “section 3(2)” substitute “section 1I”, and
- (b) omit “(market confidence)”.
- (3) For paragraph (e), and the “and” before it, substitute—
- “(e) the FCA” means the Financial Conduct Authority,
- (f) “Part 4A permission” has the meaning given by section 55A of the Financial Services and Markets Act 2000,
- (g) “the PRA” means the Prudential Regulation Authority,
- (h) “PRA-regulated activity” has the meaning given by section 22A of the Financial Services and Markets Act 2000, and
- (i) “recognised investment exchange” has the meaning given by section 285 of that Act.”
- 54 In section 223 (termination of right to issue), in subsections (5) and (6), for “Part 4” substitute “Part 4A”.
- 55 (1) Section 232 (definition) is amended as follows.
- (2) In subsections (2) and (6)(a), for “Part 4” substitute “Part 4A”.
- (3) In subsection (5B), in the definition of “rules”, for “section 139(1)” substitute “section 137B(1)”.
- (4) After subsection (6) insert—
- “(7) The Treasury may by order amend the definition of “investment activity” in subsection (5B), including by defining that term by reference to rules or guidance made by the PRA or the FCA under the Financial Services and Markets Act 2000.”
- 56 In section 234 (regulations: details), for subsection (8)(b) substitute—
- “(b) the Prudential Regulation Authority,
- (ba) the Financial Conduct Authority,”.
- 57 In section 235 (regulations: procedure), at the end insert—
- “(6) An order under section 232(7)—
- (a) is to be made by statutory instrument, and
- (b) is subject to annulment in pursuance of a resolution of either House of Parliament.”

