
Changes to legislation: There are currently no known outstanding effects for the Financial Services (Banking Reform) Act 2013, Cross Heading: Groups. (See end of Document for details)

SCHEDULES

SCHEDULE 2

BAIL-IN STABILISATION OPTION

PART 1

AMENDMENTS OF BANKING ACT 2009

Groups

7 (1) After section 81B insert—

“81BA Bail-in option

- (1) The Bank of England may exercise a stabilisation power in respect of a banking group company in accordance with section 12A(2) if the following conditions are met.
- (2) Condition 1 is that the PRA is satisfied that the general conditions for the exercise of a stabilisation power set out in section 7 are met in respect of a bank in the same group.
- (3) Condition 2 is that the Bank of England is satisfied that the exercise of the power in respect of the banking group company is necessary, having regard to the public interest in—
 - (a) the stability of the financial systems of the United Kingdom,
 - (b) the maintenance of public confidence in the stability of those systems,
 - (c) the protection of depositors, or
 - (d) the protection of any client assets that may be affected.
- (4) Condition 3 is that the banking group company is an undertaking incorporated in, or formed under the law of any part of, the United Kingdom.
- (5) Before determining whether Condition 2 is met, and if so how to react, the Bank of England must consult—
 - (a) the Treasury,
 - (b) the PRA, and
 - (c) the FCA.
- (6) In exercising a stabilisation power in reliance on this section the Bank of England must have regard to the need to minimise the effect of the exercise of the power on other undertakings in the same group.”

(2) After section 81C insert—

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“81CA Section 81BA: supplemental

- (1) This section applies where the Bank of England has power under section 81BA to exercise a stabilisation power in respect of a banking group company.
- (2) The provisions relating to the stabilisation powers and the bank administration procedure contained in this Act (except sections 7 and 8A) and any other enactment apply (with any necessary modifications) as if the banking group company were a bank.
- (3) Where the banking group company mentioned in subsection (1) is a parent undertaking of the bank mentioned in section 81BA(2) (“the bank”)—
 - (a) the provisions in this Act relating to resolution instruments are to be read in accordance with the general rule in subsection (4), but
 - (b) that is subject to the modifications in subsection (5);
 and provisions in this Act and any other enactment are to be read with any modifications that may be necessary as a result of paragraphs (a) and (b).
- (4) The general rule is that the provisions in this Act relating to resolution instruments (including supplemental resolution instruments) are to be read (so far as the context permits)—
 - (a) as applying in relation to the bank as they apply in relation to the parent undertaking, and
 - (b) so, in particular, as allowing any provision that may be made in a resolution instrument in relation to the parent undertaking to be made (also or instead) in relation to the bank.
- (5) Where the banking group company mentioned in subsection (1) is a parent undertaking of the bank mentioned in section 81BA(2) (“the bank”)—
 - (a) section 41A (transfer of property subsequent to resolution instrument) applies as if the reference in subsection (2) to the bank were to the parent undertaking, the bank and any other bank which is or was in the same group;
 - (b) section 48V (onward transfer)—
 - (i) applies as if the references in subsection (3) to “the bank” included the bank, the parent undertaking and any other bank which is or was in the same group, and with the omission of subsection (4) of that section, and
 - (ii) is to be read as permitting the transfer of securities only if they are held by (or for the benefit of) the parent undertaking or a subsidiary company of the parent undertaking;
 - (c) section 48W (reverse transfer) applies as if the references in subsections (2) and (3) to “the bank” included the bank, the parent undertaking and any other bank which is or was in the same group.
- (6) Where section 48B (special bail-in provision) applies in accordance with subsection (4) (so that section 48B applies in relation to the bank mentioned in section 81BA(2) as it applies in relation to the parent undertaking mentioned in subsection (3)), the provision that may be made in accordance with section 48B(1)(b) (see also rule 3(a) and (b) of section 48B(5)) includes

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provision replacing a liability (of any form) of that bank with a security (of any form or class) of the parent undertaking.

(7) Where the banking group company mentioned in subsection (1) is a parent undertaking of the bank mentioned in section 81BA(2)—

- (a) section 214B of the Financial Services and Markets Act 2000 (contribution to costs of special resolution regime) applies, and
- (b) the reference in subsection (1)(b) of that section to the bank, and later references in that section, are treated as including references to any other bank which is a subsidiary undertaking of the parent undertaking (but not the parent undertaking itself)."

(3) In section 81D (interpretation: "banking group company" etc)—

- (a) in subsection (6), for " , 81C" substitute " to 81CA ";
- (b) in subsection (7) for "section 81B" substitute " sections 81B to 81CA ".

Commencement Information

II Sch. 2 para. 7 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

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