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

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## SCHEDULES

### SCHEDULE 2

#### BAIL-IN STABILISATION OPTION

#### PART 1

#### AMENDMENTS OF BANKING ACT 2009

##### *Compensation*

- 6 (1) In section 49 (orders)—
- (a) in subsection (1), for “three” substitute “ four ” and for “and property transfer instruments” substitute “ , property transfer instruments and orders and resolution instruments ”;
  - (b) after subsection (2) insert—

“(2A) A “bail-in compensation order” is an order establishing a scheme for determining, in accordance with section 52A, whether any transferors or others should be paid compensation.”
- (2) In section 52 (transfer to bridge bank), in subsection (3)(b), for “specified classes of creditor,” substitute “ persons of a specified description, ”.
- (3) After section 52 insert—

##### **“52A Bail-in option**

- (1) Subsection (2) applies if the Bank of England makes—
  - (a) a resolution instrument under section 12A(2), or
  - (b) a property transfer instrument under section 41A(2).
- (2) The Treasury must make a bail-in compensation order (see section 49(2A)).
- (3) A bail-in compensation order may include provision for—
  - (a) an independent valuer (in which case sections 54 to 56 are to apply);
  - (b) valuation principles (in which case section 57(2) to (5) is to apply).”
- (4) In section 53 (onward and reverse transfers), in subsection (1)—
  - (a) before paragraph (za) insert—

“(zza) the Bank of England makes a supplemental share transfer instrument under section 26,”;
  - (b) after paragraph (za) insert—

“(zb) the Treasury makes a supplemental share transfer order under section 27,”;
  - (c) after paragraph (d) insert—

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- “(dza) the Bank of England makes a supplemental property transfer instrument under section 42.”;
  - (d) after paragraph (f) insert—
    - “(fa) the Bank of England makes a reverse property transfer instrument under section 44A(2).”;
  - (e) omit the “or” after paragraph (g);
  - (f) after paragraph (h) insert—
    - “(i) the Bank of England makes a supplemental resolution instrument under section 48U,
    - (j) the Bank of England makes an onward transfer resolution instrument under section 48V(2), or
    - (k) the Bank of England makes a reverse transfer resolution instrument under section 48W(2) or (3).”;
  - (g) in the heading, after “**transfers**” insert “ **etc** ”.
- (5) In section 54 (independent valuer)—
- (a) in subsection (1), after “compensation scheme order” insert “ or bail-in compensation order ”;
  - (b) in subsection (4)(b), after “order” insert “ or bail-in compensation order ”.
- (6) In section 56 (independent valuer: money), in subsection (2)(b) for “or third party compensation order” substitute “ , third party compensation order or bail-in compensation order ”.
- (7) In section 57 (valuation principles), in subsection (1), after “order” insert “ or bail-in compensation order ”.
- (8) After section 60 insert—

**“60A Further mandatory provision: bail-in provision**

- (1) The Treasury may make regulations about compensation arrangements in the case of—
- (a) resolution instruments under section 12A(2) and supplemental resolution instruments under section 48U(2), and
  - (b) instruments (made under any provision) that include special bail-in provision.
- (2) Regulations may—
- (a) require a resolution fund order, a compensation scheme order, a third party compensation order or a bail-in compensation order to include provision of a specified kind or to specified effect;
  - (b) make provision that is to be treated as forming part of any such order (whether (i) generally, (ii) only if applied, (iii) unless disapplied, or (iv) subject to express modification).
- (3) Regulations may provide for whether compensation is to be paid, and if so what amount is to be paid, to be determined by reference to any factors or combination of factors; in particular, the regulations may provide for entitlement—
- (a) to depend in part upon the amounts which are or may be payable under a resolution fund order;

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- (b) to be contingent upon the occurrence or non-occurrence of specified events;
  - (c) to be determined wholly or partly by an independent valuer (within the meaning of sections 54 to 56) appointed in accordance with a compensation scheme order or bail-in compensation order.
- (4) Regulations may make provision about payment including, in particular, provision for payments—
- (a) on account subject to terms and conditions;
  - (b) by instalment.
- (5) Regulations—
- (a) are to be made by statutory instrument, and
  - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

### **60B Principle of no less favourable treatment**

- (1) In making regulations under section 60A the Treasury must, in particular, have regard to the desirability of ensuring that pre-resolution shareholders and creditors of a bank do not receive less favourable treatment than they would have received had the bank entered insolvency immediately before the coming into effect of the initial instrument.
- (2) References in this section to the initial instrument are—
- (a) in relation to compensation arrangements in the case of property transfer instruments under section 12(2), to the first instrument to be made under that provision with respect to the bank;
  - (b) in relation to compensation arrangements in other cases, to the first resolution instrument to be made under section 12A with respect to the bank.
- (3) The “pre-resolution shareholders and creditors” of a bank are the persons who held securities issued by the bank, or were creditors of the bank, immediately before the coming into effect of the initial instrument.
- (4) References in this section to insolvency include a reference to (i) liquidation, (ii) bank insolvency, (iii) administration, (iv) bank administration, (v) receivership, (vi) composition with creditors, and (vii) a scheme of arrangement.”
- (9) In section 61(1) (sources of compensation),—
- (a) omit the “and” at the end of paragraph (c);
  - (b) after paragraph (c) insert—  
“*(ca)* bail-in compensation orders,”;
  - (c) after paragraph (d) insert, “, and  
“*(e)* regulations under section 60A.”
- (10) In section 62(1) (procedure), omit the “and” at the end of paragraph (b), and after that paragraph insert—  
“*(ba)* bail-in compensation orders, and”.

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#### Commencement Information

- I1** Sch. 2 para. 6(1)-(7)(9)(10) in force at 31.12.2014 by S.I. 2014/3160, **art. 2(1)(b)**
- I2** Sch. 2 para. 6(8) in force at 1.3.2014 for specified purposes by S.I. 2014/377, art. 2(1)(b), **Sch. Pt. 2**
- I3** Sch. 2 para. 6(8) in force at 31.12.2014 in so far as not already in force by S.I. 2014/3160, **art. 2(1)(b)**

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