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STATUTORY INSTRUMENTS

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**2016 No. 1239**

**The Bank Recovery and Resolution Order 2016**

**PART 2**

Amendments of the Banking Act 2009 and related provision

CHAPTER 1

Amendments of the Banking Act 2009

**Resolution company: asset and liability transfers from subsidiary banks**

**13.**—(1) After section 44C (report on special bail-in provision)<sup>M1</sup> insert—

**“44D Bridge bank: supplemental property transfer powers**

(1) This section applies where the Bank of England has made a share transfer instrument in accordance with section 12(2) (“the original instrument”) providing for the transfer of securities issued by a bank (“the bank”) to a bridge bank.

(2) The Bank of England may make one or more property transfer instruments in relation to the bank (“bridge bank supplemental property transfer instruments”).

(3) A bridge bank supplemental property transfer instrument is an instrument which—

- (a) provides for property, rights or liabilities of the bank to be transferred (whether accruing or arising before or after the original instrument);
- (b) makes other provision for the purposes of, or in connection with, the transfer of property, rights or liabilities of the bank (whether the transfer has been or is to be effected by the instrument or otherwise).

(4) Sections 7 and 8 do not apply to a bridge bank supplemental property transfer instrument (but it is to be treated in the same way as any other property transfer instrument for all other purposes including for the purposes of the application of a power under this Part).

(5) Before making a bridge bank supplemental property transfer instrument the Bank of England must consult—

- (a) the PRA,
- (b) the FCA, and
- (c) the Treasury.

(6) The possibility of making a bridge bank supplemental property transfer instrument in reliance on subsection (2) is without prejudice to the possibility of making a property transfer instrument in accordance with section 12(2) (and not in reliance on subsection (2) above).

(7) Section 42 applies where the Bank of England has made a bridge bank supplemental property transfer instrument.

#### **44E Bridge bank: supplemental reverse property transfer powers**

(1) This section applies where the Bank of England has made a bridge bank supplemental property transfer instrument in accordance with section 44D (“the original instrument”).

(2) The Bank of England may make one or more reverse property transfer instruments (“bridge bank supplemental reverse property transfer instruments”) in respect of property, rights or liabilities of the transferee under the original instrument.

(3) A bridge bank supplemental reverse property transfer instrument is an instrument which—

- (a) provides for transfer to the transferor under the original instrument;
- (b) makes other provision for the purposes of, or in connection with, the transfer of property, rights or liabilities which are, could be or could have been transferred under paragraph (a) (whether the transfer has been or is to be effected by that instrument or otherwise).

(4) Sections 7 and 8 do not apply to a bridge bank supplemental reverse property transfer instrument (but it is to be treated in the same way as any other property transfer instrument for all other purposes including for the purposes of the application of a power under this Part).

(5) The Bank of England must not make a bridge bank supplemental reverse property transfer instrument unless—

- (a) the transferee under the original instrument is—
  - (i) a company wholly owned by the Bank of England,
  - (ii) a company wholly owned by the Treasury, or
  - (iii) a nominee of the Treasury, or
- (b) it is made with the written consent of the transferee under the original instrument.

(6) Before making a bridge bank supplemental reverse property transfer instrument the Bank of England must consult—

- (a) the PRA,
- (b) the FCA, and
- (c) the Treasury.

(7) Section 42 applies where the Bank of England has made a bridge bank supplemental reverse property transfer instrument.”.

(2) In section 48A(1) (creation of liabilities) <sup>M2</sup> after “44A(3)(b),” insert “ 44D(3)(b), 44E(3)(b), ”.

(3) In section 63(1) (general continuity obligation: property transfers), in paragraph (a), for “or 41A(2)” substitute “ , 41A(2) or 44D(2) ”.

(4) In the table in section 83A (modifications of Part), after the entry for section 44A, insert—

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| “Section 44D | Subsection (5)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person.  |
| Section 44E  | Subsection (6)(a) does not apply unless the bank has as a member of its immediate group a PRA-authorized person.” |

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**Marginal Citations**

- M1** [Section 44C](#) was inserted by paragraphs 1 and 5 of Schedule 2 to the Financial Services (Banking Reform) Act 2013.
- M2** [Section 48A](#) was inserted by section 21 of the [Financial Services Act 2010 \(c.28\)](#), and amended by section 97 of the Financial Services Act 2012, and paragraph 1 and 5 of Schedule 2 to the Financial Services (Banking Reform) Act 2013.

**Changes to legislation:**

There are currently no known outstanding effects for the The Bank Recovery and Resolution Order 2016, Section 13.