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WHITE PAPER

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Bank Recovery and Resolution Directive Contractual Bail-In

The Bank Recovery and Resolution Directive equips regulatory authorities in Europe with tools designed to protect the stability of the financial system and financial markets in the European Economic Area in the event of bank failure or the failure of a systemically important investment firm. The directive introduces bail-in measures whereby investors and certain creditors of failing institutions are “bailed in” (i.e., the liabilities of the institution are written down or converted to equity) before there can be any resort to public funds. In the case of liabilities which are governed by non-EU laws, the directive mandates that European institutions impose on their counterparties contractual provisions which will facilitate the bail-in of those counterparties in the event the institution fails, although under the governing law of the relevant contract, such action may not have been open to the European regulator. This *White Paper* examines the consequences of contractual bail-in for counterparties to, and creditors and investors in, relevant European banks and other institutions.

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In the aftermath of the financial crisis of 2007/2008, a number of banks in the European Union were bailed out by governments of Member States in order to protect the stability of the financial system. This came at a heavy cost to taxpayers and gave rise to the development of Directive 2014/59/EU, known as the Bank Recovery and Resolution Directive¹ (“BRRD”), which establishes a framework for the recovery and resolution of failing European Economic Area (“EEA”)² credit institutions and larger investment firms. Among other things, the BRRD proposes that national authorities (referred to as “resolution authorities”) be armed with the tools to deal with future financial crises with a view to resolving failing institutions quickly and in a manner which causes the least disruption to financial stability. Furthermore, the tools at the disposal of regulators are designed to ensure that creditors and shareholders bear the brunt of bank failure rather than taxpayers—in that regard, resolution authorities can bail in certain liabilities to bring about the orderly resolution of banks and relevant investment firms.³

EEA market participants affected by bail-in measures will not be able to challenge the fact their assets have been bailed in—it will be lawful under EEA law and the laws of each Member State for resolution authorities to do so. However, market participants who have exposures to EEA financial institutions under contracts governed by the law of a non-EEA state are ostensibly in a different position. Hence, the extension of the bail-in mechanism to foreign law-governed liabilities of EEA financial institutions by a contractual bail-in mechanism brought about by Article 55 of the BRRD. What does this mean for foreign counterparties dealing with EEA financial institutions?

SCOPE OF ARTICLE 55 BRRD

Article 55 provides that Member States must require financial institutions to include a contractual term by which a creditor or party to an agreement creating a liability recognises that liability may be subject to the write-down and conversion powers of the resolution authority. Financial institutions must also agree to be bound by any reduction of the principal or outstanding amount due, conversion or cancellation that is effected by the exercise of those powers by a resolution authority.

The contractual bail-in requirement does not apply to certain liabilities,⁴ which are broadly:

- Deposits protected by national guarantee schemes;
- Deposits made by natural persons, and micro, small and medium-sized enterprises and exceed the amount protected by national guarantee schemes;
- Secured liabilities (including covered bonds and liabilities secured by a charge, pledge, lien or financial collateral arrangement);
- Client assets or client money (including that held for UCITS or Alternative Investment Funds) and liabilities arising under fiduciary relationships (such as a trust);
- Liabilities to other regulated financial institutions (unless intragroup) with an original maturity of less than seven days;
- Liabilities to EEA settlement finality systems, their operators or participants, and arising from the participation in such a system, with a remaining maturity of less than seven days;
- Liabilities to employees (except variable remuneration such as bonuses);
- Liabilities to commercial trade creditors for goods or services critical to daily operations;
- Tax and social services liabilities (if these are preferred liabilities under the relevant Member State’s law); and
- Liabilities in relation to depositor protection schemes.

Furthermore, contractual bail-in is not mandatory where the liabilities or instruments can be subject to write-down and conversion powers by the resolution authority of a Member State pursuant to the law of the third country or to a binding agreement concluded with that third country.

Local law must include provisions empowering resolution authorities to require financial institutions to provide them with a legal opinion relating to the legal enforceability and effectiveness of a contractual bail-in term, in cases where contractual bail-in applies.

Failure to include in the provisions governing a relevant liability a contractual bail-in term will not prevent the resolution

authority from exercising write-down and conversion powers in relation to that liability.

The European Banking Authority (“EBA”) was mandated to develop draft regulatory technical standards in order to further determine the list of excluded liabilities and the contents of the contractual term required to satisfy Article 55.

The EBA produced draft regulatory technical standards on July 3, 2015.⁵ As regards the list of exclusions, the EBA determined that it could not propose new grounds for exclusion (for example, new forms of liabilities to which the requirement to include the contractual term does not apply or a de minimis threshold as regards the value of the liabilities subject to the requirement). This is because to do so would involve an effective amendment to the text of the BRRD which is outside the remit of the EBA. Instead, the draft prepared by the EBA proceeds on the premise that all liabilities of an institution or relevant entity, unless expressly excluded as a result of Article 44(2) of the Directive, are within the scope of the bail-in tool. Therefore, in order to ensure that the write-down and conversion powers can be applied effectively with regard to any liability governed by the law of a third country and not otherwise excluded pursuant to the BRRD, the contractual term should be included. Furthermore, the regulatory standards provide, *inter alia*, that:

- A secured liability shall not be considered as an excluded liability where, at the time at which it is created, it is:
 - not fully secured; or
 - fully secured but governed by contractual terms that do not oblige the debtor to maintain the liability fully collateralised on a continuous basis in compliance with regulatory requirements of EEA law or of a third-country law achieving effects that can be deemed equivalent to EEA law.
- Liabilities issued or entered into after the date of application of the provisions to transpose article 55 BRRD in a Member State shall comprise:
 - liabilities created after that date, regardless of whether they are created under relevant agreements entered into before that date (including under master or framework agreements between the contracting parties governing multiple liabilities);

- liabilities created before or after that date under relevant agreements entered into before that date which are subject to a material amendment;
- liabilities under debt instruments issued after that date; or
- liabilities under debt instruments issued before or after that date under relevant agreements entered into before that date which are subject to a material amendment.

- A “material amendment” for these purposes is defined in the draft as an amendment which is not a “non-material amendment”. In turn, a “non-material amendment” means an amendment, including an automatic amendment, which does not affect the substantive rights and obligations of a party to a relevant agreement such as a change to the contact details of a signatory or the addressee for the service of documents, typographical changes to correct drafting errors or automatic adjustments of interest rates. On the basis of this definition, it seems that all but the most immaterial of amendments will trigger a requirement to include contractual bail-in in relation to contracts which are entered before the transposition date.

As regards the content of the bail-in contractual term, the EBA did not prescribe wording that ought to be included in relevant contracts. This is intended to allow parties sufficient flexibility to take account of issues arising in relation to a particular type of liability or a specific third-country law. Accordingly, the draft regulatory technical standards specify mandatory content but allow parties freedom to supplement the content and agree wording as they wish. The contractual provision in a relevant agreement must include the following:

- The acknowledgement and acceptance by the financial institution’s counterparty that the liability may be subject to the exercise of write-down and conversion powers by a resolution authority;
- A description of the write-down and conversion powers of each resolution authority in accordance with the national law transposing Article 55, in particular the powers conferred on resolution authorities to:
 - reduce, including to reduce to zero, the principal amount of or outstanding amount due in respect of eligible liabilities, of an institution under resolution;

- convert eligible liabilities of an institution under resolution into ordinary shares or other instruments of ownership of that institution, a relevant parent institution or a bridge institution to which assets, rights or liabilities of the institution are transferred;
 - cancel debt instruments issued by an institution under resolution except for excluded secured liabilities; and
 - amend or alter the maturity of debt instruments and other eligible liabilities issued by an institution under resolution or amend the amount of interest payable under such instruments and other eligible liabilities, or the date on which the interest becomes payable, including by suspending payment for a temporary period;
- The acknowledgement and acceptance by the entity's counterparty that it is bound by the effect of an application of the powers referred to above and that the terms of the agreement may be varied as necessary to give effect to the action of the resolution authority and such variation will be binding on the counterparty; and
 - The acknowledgement and acceptance by the entity's counterparty that the contractual term is exhaustive on the matters described therein to the exclusion of any other agreements, arrangements or understandings between the counterparties relating to the subject matter of the relevant agreement.

The final transposition date for Member States to give effect to Article 55 was 1 January 2016. Some States (including the UK) implemented contractual bail-in earlier than that. In the case of the UK, the provisions were transposed in so far as regulatory capital instruments were concerned on 1 January 2015. The other liabilities affected by Article 55 were brought within scope in the UK with effect from 1 January 2016. It should be noted, however, that as at 21 March 2016, the EEA Commission had not formally adopted the draft regulatory technical standards prepared by the EBA. Hence, while the contractual bail-in requirements are in force in Member States, the supplemental provisions set out in the draft are not. Therefore, EEA institutions affected are in a slight vacuum as to the manner in which they can comply and the extent of the scope of the contractual bail-in requirements. However, it is likely the EBA will adopt the draft regulatory technical standards without amendment.

Given the EBA has not prescribed contractual language, industry groups (notably the Loan Market Association (“LMA”) and the Loan Syndications and Trading Association (“LSTA”)) have produced draft language that market participants might consider using in affected contracts.⁶

As is evident from the foregoing, the range of liabilities that are subject to contractual bail-in is very extensive. Foreign counterparties are concerned at the impact of contractual bail-in on them and their positions with EEA financial institutions. In particular, as stated above, BRRD must be transposed by national law in the 31 Member States. As such, there is a risk that the law in all Member States will not be entirely harmonised and there may be gaps or, at least, nuanced differences between the implementing laws of Member States.

The significant uncertainties that are created by the content of Article 55 and the draft EBA regulatory technical standards are discussed below. However, it is perhaps useful to firstly understand the nature of the bail-in powers available to resolution authorities. As stated above, this will vary slightly from Member State to Member State, so this *White Paper* looks at the UK position on bail-in which, hopefully, will help to illuminate the extent of their powers.

THE POWERS OF RESOLUTION AUTHORITIES TO BAIL IN LIABILITIES—THE UK POSITION

The BRRD was implemented in the UK by legislative amendments to the Banking Act 2009. Section 17 of the Financial Services (Banking Reform) Act 2013 (the “Banking Reform Act”) brings into effect Schedule 2 of that Act, which significantly amends the Banking Act 2009. The amendments introduce a new stabilization tool called the bail-in option by inserting a new section 12A in the Banking Act 2009. Section 12A provides the Bank of England may make one or more resolution instruments which may contain provisions or proposals of any kind contemplated by Section 12A sub-sections 3 to 6 inclusive. Accordingly, the Bank of England (as lead resolution authority under the special resolution regime established by the Banking Act 2009) may make a resolution instrument which:

- Makes special bail-in provision with respect to a specified bank or makes other provision for the purposes of, or in

connection with, any special bail-in provision made by that or another instrument.

- Provides for securities issued by a specified bank to be transferred to a bail-in administrator or another person or make other provision for the purposes of, or in connection with, the transfer of securities issued by a specified bank (whether or not the transfer has been or is to be effected by that instrument, by another resolution instrument or otherwise).
- Sets out proposals with regard to the future ownership of a specified bank or of the business of a specified bank, and any other proposals (for example, proposals about making special bail-in provision) that the Bank of England may think appropriate.
- Makes any other provision the Bank of England may think it appropriate to make in exercise of specific powers under the Banking Reform Act.

The term “special bail-in provision” is defined at section 48B(1) of the Banking Act 2009⁷ and means any of the following (or any combination of the following):

- Provision cancelling a liability owed by the bank;
- Provision modifying, or changing the form of, a liability owed by the bank;
- Provision that a contract under which the bank has a liability is to have effect as if a specified right had been exercised under it.

A special bail-in provision includes an “associated provision” which is defined as a provision cancelling or modifying a contract under which a banking group company has a liability.⁸ Cancelling a liability owed by the bank includes cancelling a contract under which the bank has a liability. Modifying a liability owed by the bank includes modifying the terms (or the effect of the terms) of a contract under which the bank has a liability. Furthermore, changing the form of a liability owed by the bank, includes, for example:

- Converting an instrument under which the bank owes a liability from one form or class to another;
- Replacing such an instrument with another instrument of a different form or class; or
- Creating a new security (of any form or class) in connection with the modification of such an instrument.⁹

Examples of special bail-in provision include:

- Provision that transactions or events of any specified kind have or do not have (directly or indirectly) specified consequences or are to be treated in a specified manner for specified purposes; and
- Provision discharging persons from further performance of obligations under a contract and dealing with the consequences of persons being so discharged.

The Bank of England may exercise a bail-in option under section 12A (2) only if it is satisfied that the exercise of the power is necessary, having regard to the public interest in:

- The stability of the financial systems of the United Kingdom;
- The maintenance of public confidence in the stability of those systems;
- The protection of depositors; or
- The protection of any client assets that may be affected.

Furthermore, the Bank of England must consult with each of the Prudential Regulation Authority, the Financial Conduct authority and HM Treasury before determining that the above conditions have been met.¹⁰

Notably, section 48B(4) of the Banking Act 2009¹¹ provides that power to make special bail-in provision may be exercised only for the purpose of, or in connection with, reducing, deferring or cancelling a liability of the bank and may not be exercised so as to affect any “excluded liability”.

The following liabilities are “excluded liabilities” for the purpose of the special bail-in provision¹²:

- Liabilities representing protected deposits;
- Any liability, so far as it is secured;
- Liabilities that the bank has by virtue of holding client assets;
- Liabilities with an original maturity of less than seven days owed by the bank to a credit institution or investment firm;
- Liabilities arising from participation in designated settlement systems and owed to such systems or to operators of, or participants in, such systems;
- Liabilities owed to central counterparties recognised by the European Securities and Markets Authority in accordance with Article 25 of EMIR¹³;
- Liabilities owed to an employee or former employee in relation to salary or other remuneration, except variable remuneration;
- Liabilities owed to an employee or former employee in relation to rights under a pension scheme, except rights to discretionary benefits; and
- Liabilities owed to creditors arising from the provision to the bank of goods or services (other than financial services) that are critical to the daily functioning of the bank's operations.

A deposit is “protected” in so far as it is covered in the UK by the Financial Services Compensation Scheme or by a scheme outside the UK which is comparable to that scheme.¹⁴

The reference to a liability being secured includes a liability which is secured by a collateral arrangement, including a title transfer collateral arrangement.¹⁵

The Treasury has a statutory power under section 48F of the Banking Act 2009 to add to the list of excluded liabilities or to amend or omit any of the items referred to in section 48B

(other than protected deposits, secured liabilities and client assets) by way of statutory instrument.

IMPACT OF BAIL-IN ON INVESTORS

Under section 48L of the Banking Act 2009, a resolution instrument may cancel or modify any securities to which it relates or convert any such securities from one form or class into another. Accordingly, a resolution instrument may expropriate securities or convert debt obligations (such as bonds) to equity.

Section 60A of the Banking Act 2009 provides that HM Treasury may make regulations about compensation payments in circumstances where holders of bank securities are bailed in. Pursuant to section 60A, the Treasury made the Banking Act 2009 (Mandatory Compensation Arrangements Following Bail-in) Regulations 2014¹⁶ (the “Compensation Regulations”) which came into force on 1 January 2015.

In brief, the Compensation Regulations provide that a compensation order must provide for:

- The appointment of an independent valuer must be appointed to determine whether all relevant persons should be paid compensation, and if compensation should be paid, what amount is to be paid;
- An assessment by the independent valuer of how the investors would have been treated (“insolvency treatment”) had the relevant bank entered insolvency immediately before the coming into effect of the resolution instrument; and
- An assessment by the independent valuer of the treatment (“actual treatment”) which investors have actually received, are receiving or are likely to receive (as specified in the order) if no (or no further) compensation is paid.

If the actual treatment is less favourable to investors than the insolvency treatment or vice versa, then the independent valuer is obliged to determine that compensation is payable to the relevant investor(s). This provision in the Compensation Regulations reflects the statutory requirement under section 60B of the Banking Act 2009 that the Treasury in making orders under section 60A must 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 proceedings before the resolution instrument was made. The amount of compensation is to be determined by the independent valuer by reference to the fair and equitable value of that difference in treatment. The methodology is very similar to the mandatory compensation provisions following partial property transfers under the Banking Act 2009.¹⁷

Over time, it will be interesting to see how questions about expropriation of securities are addressed in various Member States. In particular, in Member States where there are written constitutions (unlike the UK) which guarantee property rights, there might be different analyses by courts in those jurisdictions of the interaction between the bail-in powers under the directive and such fundamental constitutional rights.

The prospect of bail-in raises an issue for banks that raise debt in the bond markets as there will inevitably be a need to factor in the additional risk of bail-in in pricing bonds. Ultimately, this means that the return on the bonds will likely have to be increased sufficiently to give investors comfort that the risk of bail-in is outweighed by the return to be made on the investment. In short, this has the effect of generating a marked increase in the cost of capital for banks and other affected financial institutions at the very time when more capital is needed in order to comply with the Basel III reforms as legislated in the EU by the Capital Requirements Directive¹⁸ and the Capital Requirements Regulation.¹⁹

IMPACT OF BAIL-IN ON SET-OFF/NETTING ARRANGEMENTS

Section 48P of the Banking Act 2009 defines “protected arrangements” as: security interests, title transfer collateral arrangements, set-off arrangements and netting arrangements. Each of these types of arrangement is further defined in the section, and these definitions are comprehensive enough to capture a broad range of netting, close-out netting and collateral arrangements that arise in the derivatives and other financial markets.

Section 48P(3) provides that HM Treasury may by order:

- Restrict the exercise of any power in cases that involve, or where the exercise of the power might affect, protected arrangements;
- Impose conditions on the exercise of any power where the exercise of the power might affect protected arrangements;
- Require any instrument that makes special bail-in provision to include specified provision, or provision to a specified effect, in respect of protected arrangements;
- Provide for an instrument to be void or voidable, or for other consequences to arise, if or in so far as the instrument is made or purported to be made in contravention of a provision of the order; and
- Specify principles to which the Bank of England is to be required to have regard in exercising specified powers: (i) that involve protected arrangements, or (ii) where the exercise of the powers might affect protected arrangements.

HM Treasury made the Banking Act 2009 (Restriction of Special Bail-in Provision, etc.) Order 2014²⁰ which restricts the special bail-in provisions in so far as they may relate to protected arrangements.

Article 4(1) of the Order provides that an instrument may not make special bail-in provision in respect of a “protected liability”. A “protected liability” is defined by article 4(2) of the Order as follows:

“(2) In this article a “protected liability” is a liability which meets each of the following conditions—

- (a) Condition 1 is that the liability is owed by the relevant banking institution to a particular person (“the person”);
- (b) Condition 2 is that the liability is a liability which—
 - (i) either the person or the relevant banking institution is entitled to set-off or net under a particular set-off arrangement, netting arrangement or title transfer collateral arrangement into

which the person has entered with the relevant banking institution (“the relevant arrangement”), and

(ii) has not been converted into a net debt, claim or obligation, whether in accordance with the relevant arrangement or through the making of special bail-in provision or otherwise;

(c) Condition 3 is that the liability relates to a derivative, financial contract or qualifying master agreement (see article 5).

(3) For the purposes of paragraph (2), it does not matter whether—

(a) the arrangement which permits the person or the banking institution to set-off or net the liability also permits the person or the banking institution to set-off or net rights and liabilities with another person;

(b) the right of the person or the banking institution to set-off or net is exercisable only on the occurrence of a particular event.”

On the basis of article 4(2) of the Order, the set-off and netting arrangements contemplated by the draft order are protected until they are exercised. Thus, once the netting or set-off right has been exercised, the net debt or claim may be bailed in (assuming the net sum is due by the bank in resolution).

However, article 4(1) of the Order is subject to article 4(6) which provides that the restriction on bail-in of protected liabilities does not prevent special bail-in provision being made in order to convert a “protected liability” into a net sum or claim (or estimating what the net sum would be) at the time the bail-in provision is made. As noted above, section 48B(1) of the Banking Act 2009 provides, *inter alia*, that a special bail-in provision may deal with contracts as though a specified right had been exercised under it. There is a concern that the combined effect of section 48B(1) and article 4(6) may be wider than intended. An example of the mischief that might occur would be where a liability which would otherwise be a “protected liability” could be subject to special bail-in provision by being treated as though the netting/set-off rights had been exercised

and estimating the net sum due by the bank. In essence, that approach could defeat the notion that the liability is truly protected until the set-off/netting rights are exercised.

ISSUES FOR NON-EEA COUNTERPARTIES AND CREDITORS

The universe of liabilities that are subject to bail-in is very broad indeed. It includes both contractual and non-contractual liabilities. Effectively, every liability is subject to bail-in unless it has expressly been excluded. This leaves non-EEA counterparties, creditors and security holders in relation to EEA financial institutions concerned about what they are signing up to by agreeing to contractual bail-in.

The resolution authority can exercise powers of bail-in when the financial institution is determined to be in financial distress and when normal insolvency proceedings or other initiatives are not considered appropriate to secure the stability of the financial system. Article 59 of the BRRD grants resolution authorities a separate power of mandatory write-down and conversion of capital instruments. The resolution authority can use this power independently of resolution action or, when certain conditions are met, in combination with resolution action.

In the syndicated loan market, in particular, the range of affected contracts is likely to be very broad. Thus, agreements to which EEA banks are parties, whether as lenders, payment agents or managers, will need to contractually provide for recognition of bail-in to the extent those agreements are governed by non-EEA law. Where EEA banks acquire transfers of loans originated by non-EEA banks, then, to the extent the EEA bank succeeds to a legal commitment or becomes liable on an indemnity or otherwise incurs a liability under the original loan agreement, consideration may need to be given as to whether or not bail-in needs to be provided for in the contract.

Clients of EEA prime brokers will be concerned to understand the extent to which their assets are at risk if they are rehypothecated by the prime broker in circumstances where they are delivered under title transfer arrangements pursuant to stock lending agreements or other market documentation. Whilst the UK regime will typically regard those arrangements as protected arrangements, the position might not be the same in every EEA Member State.

Where letters of credit and other trade finance instruments issued by non-EEA banks are subject to the law of a non-EEA country, contractual bail-in will apply. However, in this case, if the instrument were governed by EEA law, the liability would be subject to bail-in anyway, at least in theory. It is submitted, however, that letters of credit are unlikely to be bailed in in a resolution because of their uncertain value and the contingent nature of the issuer's liability under them.

In many countries outside the EEA, at least to begin with, creditors and counterparties are likely to have low awareness of the implications of European resolution powers. They should seek advice when presented with contractual recognition of bail-in clauses as to what the consequences might be. From the EEA financial institution's perspective, there is a mandatory requirement to include the term. Failure to do so could lead to legal and regulatory action against it. As stated above, the bail-in tool could be exercised in relation to a relevant liability irrespective of whether the contractual term has been applied. However, there would then be some doubt as to the efficacy of that action as a matter of the foreign governing law of the contract. That said, if a foreign creditor were to attempt to enforce a foreign judgment against the EEA financial institution in the EEA jurisdiction, the court is likely to refuse to enforce the judgment on the grounds that it would be contrary to public policy.

The issues with bail-in are complex and varied, and Jones Day are well-positioned to assist, having offices in many EEA jurisdictions with local knowledge on tap.

LAWYER CONTACT

For further information, please contact your principal Firm representative or the lawyer listed below. General email messages may be sent using our "Contact Us" form, which can be found at www.jonesday.com/contactus/.

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ENDNOTES

- 1 [Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014.](#)
- 2 The EEA includes the 28 Member States of the European Union as well as Iceland, Norway and Liechtenstein.
- 3 For convenience, banks and relevant investment firms are collectively referred to as "financial institutions" hereafter.
- 4 Articles 44(2) and 108(a) BRRD.
- 5 [Draft Regulatory Technical Standards on the contractual recognition of write-down and conversion powers under Article 55\(3\) of Directive 2014/59/EU.](#)
- 6 For members, the [forms of wording suggested by both the LMA and the LSTA](#) are available from the LSTA's website. The LMA document, *LMA Recommended Form of Bail-In Clause and Users Guide*, also includes some helpful guidance on the scope of Article 55 and some of the issues it raises for the industry. The LSTA wording was published in September 2015 whilst the LMA document was published on 1 February 2016.
- 7 As inserted by Schedule 2 of the Banking Reform Act.
- 8 Cf Banking Act 2009, section 48B(3).
- 9 Cf Banking Act 2009, section 48B(5).
- 10 Cf Banking Act 2009, section 8A(4).
- 11 As inserted by Schedule 2 of the Banking Reform Act.
- 12 Cf Banking Act 2009, section 48B(8).
- 13 Regulation (EU) 648/2012—the European Markets Infrastructure Regulation.
- 14 Cf Banking Act 2009, section 48C.
- 15 Cf Banking Act 2009, section 48D.
- 16 UK SI 2014/3330.
- 17 As provided for in the Banking Act 2009 (Third Party Compensation Arrangements for Partial Property Transfers) Regulations 2009 (S.I. 2009/319).
- 18 Directive 2013/36/EU of the European Parliament and of the Council.
- 19 Regulation EU No. 575/2013 of the European Parliament and of the Council.
- 20 UK SI 2014/3350.