



BANK OF ENGLAND

# The Bank of England Act 1998, the Charters of the Bank and related documents

June 2018

# BANK OF ENGLAND CONSTITUTIONAL DOCUMENTS

<b>Introduction.....</b>	<b>3</b>
<b>Bank of England Act 1694.....</b>	<b>6</b>
<b>1694 Charter.....</b>	<b>8</b>
<b>Bank Charter Act 1844.....</b>	<b>10</b>
<b>Bank of England Act 1946.....</b>	<b>11</b>
<b>1998 Charter.....</b>	<b>16</b>
<b>Bank of England Act 1998.....</b>	<b>19</b>
<b>Financial Services and Markets Act 2000.....</b>	<b>97</b>
<b>Banking Act 2009.....</b>	<b>119</b>
<b>Financial Services Act 2012.....</b>	<b>121</b>
<b>MOU on resolution planning and financial crisis management.....</b>	<b>133</b>
<b>Orders.....</b>	<b>143</b>

## INTRODUCTION

1 The constitutions of the Bank of England are largely contained in the following documents and pieces of legislation:

- the Bank of England Act 1694 (the ‘1694 Act’);
- the Charter of the Bank of England 1694 (the ‘1694 Charter’);
- the Bank Charter Act 1844 (the ‘1844 Act’);
- the Bank of England Act 1946 (the ‘1946 Act’);
- the Charter of the Bank of England 1998 (the ‘1998 Charter’);
- the Bank of England Act 1998 (the ‘1998 Act’);
- the Financial Services and Markets Act 2000 (the ‘2000 Act’);
- the Banking Act 2009 (the ‘2009 Act’)
- the Financial Services Act 2012 (the ‘2012 Act’);
- the Bank of England and Financial Services Act 2016 (the ‘2016 Act’); and
- related Orders.

2 The Memorandum of Understanding on resolution planning and financial crisis management between HM Treasury on the one hand and the Bank and the Prudential Regulation Authority (‘PRA’) on the other, entered into pursuant to the 2012 Act, is also relevant.

3 Copies, or relevant excerpts, of the documents listed above (other than the 2016 Act, which amended the existing legislation) are included in this booklet, amended as appropriate to show what remains in force as at 1 June 2018. **[Square brackets] denote text that has been inserted or substituted since the original legislation was first enacted. Where inserted text is prospective, it is in [square brackets] and underlined. For a more detailed history of the various legislative amendments, insertions and deletions, the reader is advised to consult Westlaw or Lexis Library.**

4 The Bank is a body corporate incorporated by Royal Charter pursuant to the 1694 Act. The 1694 Charter incorporates the Bank, constitutes its capital stock and authorises it to have a common seal, to hold land and other property, and to sue and be sued. As a chartered corporation, incorporated pursuant to statute, the powers of the Bank have to be determined by reference to the 1694 Charter and statute and subsequent Charter and legislative amendments.

5 Since 1694 there have been a number of enactments directly affecting the Bank and its organisation. Various statutory provisions remain in force which are concerned with the Bank's organisation, governance, powers and functions.

6 The 1844 Act obliges the Bank to separate its issue and banking functions and to keep them in distinct departments. Under the 1946 Act the Bank was nationalised and its capital stock transferred to the Treasury. At that time a revised Charter was granted and the 1946 Act and the Charter contained various provisions relating to the management of the Bank. Section 4(1) of the 1946 Act enabled the Treasury from time to time to give directions to the Bank as, after consultation with the Governor, they thought to be necessary in the public interest.

7 The 1998 Act introduced several important changes:

- Part I and Schedule 1 replaced the provisions relating to the constitution and operation of Court in the 1946 Act and the 1946 Charter. As a result much of the 1946 Charter became redundant and was replaced by the 1998 Charter.
- Part I and Schedule 2 imposed formal reporting requirements on the Bank and placed the funding on a statutory basis.
- Part II and Schedule 3 conferred operational responsibility for monetary policy on the Bank and established the Monetary Policy Committee (the 'MPC') as a Committee of the Bank with responsibility for the exercise of its powers in relation to the formulation of monetary policy. Section 4(1) of the 1946 Act was amended to exclude monetary policy from the matters in relation to which the Treasury can give directions.
- Part III dealt with the transfer of the Bank's supervisory functions to the Financial Services Authority (FSA) and Part IV with miscellaneous matters.

8 The 1998 Charter, apart from continuing the 1694 Charter, contains provisions relating to the transfer of capital stock and the declaration required of Governors and Directors.

9 The 2009 Act introduced further important changes regarding the responsibilities, powers and role of the Bank. These included provisions regarding the governance of the Bank and a new statutory financial stability objective. It created a new Special Resolution Regime (SRR) for dealing with distressed banks and building societies. It conferred a statutory oversight role on the Bank in relation to inter-bank payment systems recognised by the Treasury and created a new framework for the issuance of banknotes in Scotland and Northern Ireland to be overseen by the Bank. The Act also granted the Bank immunity in its capacity as a monetary authority (including its central bank and financial stability-related functions) and authorised the Bank to disclose financial stability-related information to certain bodies.

10 The 2012 Act introduced significant changes to the regulatory framework for financial services and abolished the Financial Services Authority. The Act created a new regulatory structure consisting of the Bank's Financial Policy Committee ('FPC'), the PRA (a subsidiary of the Bank) and the Financial Conduct Authority ('FCA'). It also made other important changes to the 1998 Act, the 2000 Act and the 2009 Act. In particular, as regards the Bank, the Bank assumed responsibility for the supervision of central counterparties and securities settlement systems in the United Kingdom to sit alongside its existing responsibilities for overseeing recognised payment systems. It also introduced revised governance arrangements regarding Court and the newly created Oversight Committee and provided for revised appointment arrangements of the Governor of the Bank, with the effect that the Governor is to be appointed for a single term of eight years rather than a maximum of two five-year terms.

11 The 2016 Act introduced further reforms both to the governance of the Bank and to the financial services sector in general. In particular, as regards the Bank, the Act ended the PRA's status as a subsidiary of the Bank and transferred its functions to the Bank. It established a new committee of the Bank, the Prudential Regulation Committee ('PRC'), with responsibility for exercising the Bank's functions in its role as the PRA. The Act also made the Bank subject to scrutiny by the National Audit Office, and abolished the Oversight Committee, transferring the latter's functions to the Court as a whole.

12 The 1998 Act was brought into force on 1 June 1998. A list of the Orders made under the 1998 Act, together with the dates on which they came into force, is set out at the end of this booklet. Various changes to the 1998 Act and related Orders have been made since 1998, in particular with the introduction of the 2000 Act, the 2009 Act, the 2012 Act, and the 2016 Act. The booklet reflects the changes introduced by these Acts to the 1998 Act. It also reproduces the Bank immunity and information disclosure provisions introduced by the 2009 Act (as amended by the 2012 Act) and the provisions in the 2012 Act concerning collaboration between the Treasury, the Bank, the FCA and the PRA.

13 The 2012 Act was introduced on a phased basis during 2013. The first Commencement Order was made on 23 January 2013. Other provisions relating to appointments came into force on 19 February 2013. The 2012 Act came into force more fully on 1 April 2013. The 2016 Act was introduced on a phased basis during 2016-2017. The majority of its provisions came into force on 6 July 2016. Certain provisions, including the reforms to the status of the PRA, came into force on 1 March 2017.

14 The full texts of the 1998 Act, the 2000 Act, the 2009 Act, the 2012 Act and the 2016 Act can be accessed on [www.legislation.gov.uk](http://www.legislation.gov.uk), as well as on Westlaw and Lexis Library.

June 2018

*Crown Copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland.*

## **BANK OF ENGLAND ACT 1694**

### **(5 & 6 Will. & Mar. c. 20)**

An Act for granting to their Majesties severall Rates and Duties upon Tunnage of Ships and Vessells and upon Beere Ale and other liquors for securing certaine Recompenses and Advantages in the said Act mentioned to such Persons as shall voluntarily advance the sume of Fifteene hundred thousand pounds towards the carrying on the Warr against France

...

#### **19 Their Majesties may appoint rules for transferring; and may make the subscribers a corporation, subject to redemption**

And . . . that it shall and may be lawfull to and for their Majesties by letters patents under the greate seale of England to limitt directe and appointe how and in what manner and proporcons and under what rules and direcons the said sume of twelve hundred thousand pounds parte of the said sume of fifteene hundred thousand pounds and the said yearely sume of one hundred thousand pounds parte of the said yearely sume of one hundred and forty thousand pounds and every or any parte of proporcon thereof may be assigneable or transferrable assigned or transferred to such person or persons only as shall freely and voluntarily accepte of the same and not otherwise and to incorporate all and every such subscribers and contributors their . . . successors or assignes to be one body corporate and politick by the name of The Governor and Company of the Banke of England and by the same name of The Governor and Company of the Banke of England to have perpetuall succession and a comon seale and that they and their successors by the name aforesaid shall be able and capable in lawe to have purchase receive possesse enjoye and retaine to them and their successors lands rents tenements and hereditaments of what kinde nature or quality soever and alsoe to sell grant demise alien or dispose of the same and by the same name to sue and implead and be sued and impleaded answere and be answered in courts of record or any other place whatsoever and to doe and execute all and singuler other matters and things by the name aforesaid that to them shall or may appertaine to doe subjecte nevertheless to the proviso and condicon of redempcon herein after menconed:

...

#### **26 Corporation not to trade. Punishment**

And to the intent that their Majesties subjects may not be oppressed by the said corporacon by their monopolizing or ingrosseing any sort of goods wares or merchandizes be it further declared and enacted by the authority aforesaid that the said corporacon to be made and created by this Act shall not att any time dureing the continuance thereof deale or trade or permitt or suffer any person or persons whatsoever either in trust or for the benefitt of the same to deale or trade with any of the stockmoneyes or effects of or any wise belonging to the said corporacon in the buying or selling of any goods wares or merchandizes whatsoever

and every person or persons who shall soe deale or trade or by whose order or direcons such dealeings or tradeing shall be made prosecuted or managed shall forfeite for every such dealeing or tradeing and every such order and direcons treble the value of the goods and merchandize soe traded for to such person or persons who shall sue for the same by accon of debt bill plaint or information in any of their Majesties courts of record at Westminster wherein noe essoigne proteccion nor other priviledge whatsoever nor any injunccion order of restraunte nor wager of lawe shall be allowed nor any more then one imparlance:

## **27 In what things they may nevertheless deal**

Provided that nothing herein contened shall any wayes be construed to hinder the said corporacon from dealeing in bills of exchange or in buying or selling bullion gold or silver or in selling any goods wares or merchandize whatsoever which shall be really and bona fide be left or deposited with the said corporacon for money lent and advanced thereon and which shall not be redeemed att the time agreed on or within three moneths after or from selling such goods as shall or may be the produce of lands purchased by the said corporacon:

## THE CHARTER OF THE CORPORATION OF THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND

(27 July 1694)

WILLIAM and MARY, by the Grace of God, King and Queen of England, Scotland, France and Ireland, Defenders of the Faith, &c. To all to whom these Presents shall come, Greeting.

...

Now know ye, That we being desirous to promote the publick Good and Benefit of our People, which in these Presents are chiefly designed and intended, as well as the Profit and Advantage of all such as have subscribed and contributed according to the said Act of Parliament, and our said Commission thereupon issued, their Heirs, Successors, and Assignees respectively, and in pursuance as well of the Powers and Clauses for this Purpose, contained in the said Act of Parliament, as of our gracious Promise and Declaration, made in or by our said Commission, or Letters Patents, under the Great Seal of England, whereby the Subscriptions and Contributions on the said Act have been promoted or encouraged, and by Virtue of our Prerogative Royal, and likewise of our especial Grace, certain Knowledge, and meer Motion, Have given, granted, made, ordained, constituted, declared, appointed, and established, and by these Presents, for Us, our Heirs and Successors, do give, grant, make, ordain, constitute, declare, appoint and establish, that the said Sir William Ashhurst, & c. ... and all and every other Person and Persons, Natives and Foreigners, Bodies Politick or Corporate, who, over and above the Persons before especially named, have at any Time or Times before the making of these Presents, subscribed and contributed any Sum or Sums of Money towards the said Sum of Twelve Hundred Thousand Pounds so subscribed, pursuant to the said Act, and our said Commission, and have paid the fourth Part thereof upon their said Subscriptions, and who are now living or existent, and have not assigned their Interest in the said Subscriptions; and all and every the Heirs and Successors of any of the said original Subscribers, who are now dead, and have not in their Life-times assigned their Interests in the said Subscriptions, and the Heirs and Successors of such of the said Assignees who are now dead, and did not in their Life-times assign or depart with their Interest in the said Stock and annual Fond, and all and every Person and Persons, Natives or Foreigners, Bodies Politick and Corporate, who, either as original Subscribers of the said Sum of Twelve Hundred Thousand Pounds so subscribed, and not having parted with their Interests in their Subscriptions, or as Heirs, Successors, or Assignees, or by any other lawful Title derived, or to be derived from, by, or under the said original Subscribers of the said Sum of Twelve Hundred Thousand Pounds so subscribed, or any of them now have, or at any Time or Times hereafter shall have, or be entituled to any Part, Share, or Interest of or in the Principal or Capital Stock of the said Corporation, or the said yearly Fond of One Hundred Thousand Pounds, granted by the said Act of Parliament, or any Part thereof, so long as they respectively shall have any such Part, Share, or Interest therein, shall be, and be called one Body Politick and Corporate, of themselves, in Deed and in Name, by the Name of *The Governor and Company of the Bank of England*; and them by that Name, one Body Politick and Corporate, in Deed and in Name, We do, for Us, our Heirs, and Successors, make, create,

erect, establish, and confirm for ever, by these Presents, and by the same Name, they and their Successors shall have perpetual Succession, and shall and may have and use a Common Seal, for the Use, Business, or Affairs of the said Body Politick and Corporate, and their Successors, with Power to break, alter, and to make anew their Seal from Time to Time, at their Pleasure, and as they shall see Cause. And by the same Name, they and their Successors in all Times coming, shall be able and capable in Law, to have, take, purchase, receive, hold, keep, possess, enjoy, and retain to them and their Successors, any Manors, Messuages, Lands, Rents, Tenements, Liberties, Privileges, Franchises, Hereditaments, and Possessions whatsoever, and of what Kind, Nature, or Quality soever; and moreover, to purchase and acquire all Goods and Chattels whatsoever, wherein they are not restrained by the said Act, and also to sell, grant, demise, alien, and dispose of the same Manors, Messuages, Lands, Rents, Tenements, Privileges, Franchises, Hereditaments, Possessions, Goods and Chattels, or any of them. And by the same Name, they and their Successors shall and may sue and implead, and be sued and impleaded, answer and defend, and be answered and defended in Courts of Record, or any other Place whatsoever, and before whatsoever Judges, Justices, Officers and Ministers of Us, our Heirs, and Successors; and in all and singular Pleas, Actions, Suits, Causes and Demands whatsoever, of what Kind, Nature, or Sort soever, and in as large, ample and beneficial Manner and Form as any other Body Politick and Corporate, or any other the Liege People of England, or other our Dominions, being Persons able and capable in Law, may or can have, take, purchase, receive, hold, keep, possess, enjoy, sell, grant, demise, alien, dispose, sue, implead, defend, or answer, or be sued, impleaded, defended, or answered in any manner of wise, And we do hereby for Us, our Heirs and Successors, declare, limit, direct and appoint, that the aforesaid Sum of Twelve Hundred Thousand Pounds so subscribed as aforesaid, shall be, and be called, accepted, esteemed, reputed and taken, *The Common Capital and Principal Stock of the Corporation hereby constituted*. In Witness whereof, we have caused these our Letters to be made Patents. Witness our selves at Westminster, the seven and twentieth day of July, in the sixth Year of our Reign.

*By Writ of Privy Seal,*

Pigott.

Intrat. int. Record. Domini Regis Willielmi Tertii, infra Recept. Scaccarii ss. remanen. in Officio Clerici Thesaurarii al. Clerici Pellium decimo die Junii, 1695. Annoq; Regni dicti Domini Regis septimo.<sup>1</sup>

---

<sup>1</sup> The Latin text may be translated as follows: "Entered among the Records of the Lord King William III, within the Receipt of the Exchequer; to wit, remaining in the Office of the Clerk of the Treasurer, otherwise the Clerk of the Pells, the 10<sup>th</sup> day of June, 1695. And in the seventh year of the reign of the said Lord King."

## **BANK CHARTER ACT 1844**

### **(7 & 8 Vict. c. 32)**

An Act to regulate the Issue of Bank Notes, and for giving to the Bank of England certain Privileges for a limited period

[19 July 1844]

#### **1 Bank of England to establish a separate department for the issue of promissory notes payable on demand; to be called the “Issue Department”**

. . . The issue of promissory notes of the governor and company of the Bank of England, payable on demand, shall be separated and thenceforth kept wholly distinct from the general banking business of the said governor and company; and the business of and relating to such issue shall be thenceforth conducted and carried on by the said governor and company in a separate department, to be called “the Issue Department of the Bank of England,” . . .

...

#### **11 Bankers lawfully issuing notes under licence on 6th May 1844 may continue to do so: otherwise bankers shall not issue or borrow on notes payable on demand**

. . . It shall be not lawful for any banker to draw, accept, make, or issue, in England or Wales, any bill of exchange or promissory note or engagement for the payment of money payable to bearer on demand, or to borrow, owe, or take up, in England or Wales, any sums or sum of money on the bills or notes of such banker payable to bearer on demand, . . .

...

#### **28 Interpretation clause**

. . . in this Act . . . the term “Bank of England notes” shall extend and apply to the promissory notes of . . . the Bank of England payable to bearer on demand; and . . . the term banker shall extend and apply to all corporations, societies, partnerships, and persons, and every individual person, carrying on the business of banking, whether by the issue of bank notes or otherwise, except only . . . the Bank of England; and . . . the word “person” used in this Act shall include corporations; and . . . the singular number in this Act shall include the plural number, and the plural number the singular, except where there is anything in the context repugnant to such construction; and . . . the masculine gender in this Act shall include the feminine, except where there is any thing in the context repugnant to such construction.

## **BANK OF ENGLAND ACT 1946**

### **(9 & 10 Geo. 6 c. 27)**

An Act to bring the capital stock of the Bank of England into public ownership and bring the Bank under public control, to make provision with respect to the relations between the Treasury, the Bank of England and other banks and for purposes connected with the matters aforesaid

[14th February 1946]

#### **1 Transfer of Bank stock to Treasury**

(1) On the appointed day—

(a) the whole of the existing capital stock of the Bank (hereinafter referred to as “Bank stock”) shall, by virtue of this section, be transferred, free of all trusts, liabilities and incumbrances, to such person as the Treasury may by order nominate, to be held by that person on behalf of the Treasury;

(b) the Treasury shall issue, to the person who immediately before the appointed day is registered in the books of the Bank as the holder of any Bank stock, the equivalent amount of stock created by the Treasury for the purpose (hereinafter referred to as the “Government stock”).

(2) The Government stock shall bear interest at the rate of three per cent. per annum; and the equivalent amount of Government stock shall, in relation to any person, be taken to be such that the sum payable annually by way of interest thereon is equal to the average annual gross dividend declared during the period of twenty years immediately preceding the thirty-first day of March, nineteen hundred and forty-five, upon the amount of Bank stock of which that person was the registered holder immediately before the appointed day.

(3) The Government stock may be redeemed at par by the Treasury on or at any time after the fifth day of April, nineteen hundred and sixty-six, after giving not less than three months' notice in the London Gazette of their intention to do so.

(4) After the appointed day, no dividends on Bank stock shall be declared but in lieu of any such dividends the Bank shall pay to the Treasury, on every fifth day of April and of October, [a sum equal to 25 per cent of the Bank's net profits for its previous financial year, or such other sum as the Treasury and the Bank may agree].

(5) The incidental and supplemental provisions set out in the First Schedule to this Act shall have effect with respect to the Government stock and to the sums payable to the Treasury under the last foregoing subsection.

[(6) In subsection (4) of this section, the reference to the Bank's net profits for its previous financial year is to the profits shown in the audited accounts for that year less the amount of the tax charge so shown.]

...

### **3 Consequential provisions as to constitution and powers of the Bank**

(1) So much of any enactment as limits the duration of the Bank as a body corporate shall cease to have effect.

(2) As from the appointed day every member of the court of directors of the Bank shall be a member of the said body corporate, notwithstanding that he holds no Bank stock, and accordingly the members of the said body shall be the members for the time being of that court together with the person who for the time being holds the Bank stock on behalf of the Treasury.

(3) As from the appointed day His Majesty may revoke all or any of the provisions of the charters of the Bank except in so far as they incorporate the Bank, and thereafter, subject to the provisions of this Act [and the Bank of England Act 1998], the Bank shall be constituted and regulated in accordance with so much of the said charters as remains unrevoked and such other charters as may from time to time be granted by His Majesty and accepted on behalf of the Bank by the court of directors.

(4) ...

### **4 Treasury directions to the Bank and relations of the Bank with other banks**

(1) The Treasury may from time to time give such directions to the Bank as, after consultation with the Governor of the Bank, they think necessary in the public interest[, except in relation to[—

(a)] monetary policy],

[(b) the exercise by the Bank of its functions as the Prudential Regulation Authority (see section 2A of the Financial Services and Markets Act 2000)].

(2) ...

(3) The Bank, if they think it necessary in the public interest, may request information from and make recommendations to bankers, and may, if so authorised by the Treasury, issue directions to any banker for the purpose of securing that effect is given to any such request or recommendation:

Provided that:—

(a) no such request or recommendations shall be made with respect to the affairs of any particular customer of a banker; and

(b) before authorising the issue of any such directions the Treasury shall give the banker concerned, or such person as appears to them to represent him, an opportunity of making representations with respect thereto.

(4), (5) . . .

(6) In this section the expression “banker” means any such person carrying on a banking undertaking as may be declared by order of the Treasury to be a banker for the purposes of this section.

(7) Any order made under the last foregoing subsection may be varied or revoked by a subsequent order.

(8) . . .

## **5 Interpretation**

For the purposes of this Act—

(a) the expression “the Bank” means the Bank of England;

(b) the appointed day shall be such day as the Treasury may by order appoint, . . .

## **6 Short title**

This Act may be cited as the Bank of England Act 1946.

...

## **SCHEDULE 1 Incidental and Supplemental Provisions as to the Government Stock and Sums payable by the Bank to the Treasury**

### **Section 1**

#### **1**

The principal of and interest on the Government stock, and any expenses incurred in connection with the issue or redemption thereof, shall be charged on and issued out of [the National Loans Fund with recourse to] the Consolidated Fund of the United Kingdom . . . (hereafter in this Schedule referred to as “the Consolidated Fund”).

#### **2**

...

**3**

The interest on the Government stock shall be payable on the fifth day of April and the fifth day of October in each year.

**4**

...

**5**

...

**6**

Section forty-seven of the Finance Act 1942 (which empowers the Treasury to make regulations as respects the transfer and registration of stock and registered bonds of the descriptions specified in Part I of the Eleventh Schedule to that Act), and any regulations made thereunder which are in force immediately before the appointed day, shall have effect as if the Government stock were included among the stocks mentioned in the said Part I and among the stocks to which the said regulations apply.

**7**

Where immediately before the appointed day any dead person is registered in the books of the Bank as the holder or one of the joint holders of any Bank stock, any Government stock purporting to be issued to him, or to him and the other joint holders, shall be deemed to be duly issued to his personal representatives, or to the survivors or the personal representatives of the last survivor of the joint holders, as the case may be; and, in the case of administrators, as well as in the case of executors, this paragraph shall have effect notwithstanding that there is no grant of representation to them until after the appointed day.

**8**

The Government stock issued in substitution for any Bank stock shall be held in the same rights and on the same trusts and subject to the same powers, privileges, provisions, charges, restraints and liabilities as those in, on or subject to which the Bank stock was held immediately before the appointed day, and so as to give effect to and not revoke any deed, will, order, mandate, notice or other instrument or testamentary or other disposition disposing of or affecting the Bank stock, and every such instrument or disposition shall take effect with reference to the whole or a proportionate part, as the case may be, of the substituted Government stock.

**9**

Trustees, executors and all other holders in any representative or fiduciary capacity of any Bank stock may hold, dispose of or otherwise deal with the Government stock issued in

substitution therefor in all respects as they might have held, disposed of or otherwise dealt with the Bank stock.

...

## **11**

The Government stock shall be subject to the provisions of the National Debt Act 1870, so far as is consistent with the tenor of this Act.

[11A

(1) If, when a payment falls to be made under section 1(4) of this Act, the Bank's accounts for the previous financial year have not been audited, the payment shall be made on the basis of the Bank's estimate of the relevant amounts.

(2) If an amount estimated under sub-paragraph (1) of this paragraph differs from the amount shown in the audited accounts, an appropriate adjustment shall be made to the next payment under section 1(4) of this Act to be made after the difference becomes apparent.]

## **12**

...

## **13**

The sums paid by the Bank to the Treasury in lieu of dividends on Bank stock shall be paid into the Exchequer . . .

[14

Any sum paid by the Bank to the Treasury in lieu of dividends shall be allowed as a deduction in assessing the Bank to corporation tax for the accounting period by reference to which the payment is calculated.]

## **THE CHARTER OF THE CORPORATION OF THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND**

**[15 June 1998]**

ELIZABETH THE SECOND by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith:

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING!

WHEREAS by a Charter granted by Their Majesties King William and Queen Mary in pursuance of the Bank of England Act 1694 and dated the twenty-seventh day of July in the sixth year of their reign the Governor and Company of the Bank of England (hereinafter called “the Bank of England”) were duly incorporated with perpetual succession and a common seal and such rights, powers and privileges as are therein described:

AND WHEREAS by a Supplemental Charter granted by Her Majesty Queen Victoria in pursuance of the Bank Act 1892 and dated the nineteenth day of August in the sixtieth year of Her reign the internal affairs of the Bank of England were further regulated:

AND WHEREAS the Bank of England Act 1946 by section 1 enacted that on a day to be appointed for the purposes of that Act (hereinafter called “the appointed day”, and subsequently appointed by the Treasury as the first day of March One thousand nine hundred and forty-six) the whole of the existing capital stock of the Bank of England should be transferred to such person as the Treasury might by order nominate: and by section 2 enacted that on and after the appointed day there should be a Governor, a Deputy Governor and sixteen directors of the Bank of England who should be the court of directors and that the provisions of the Second Schedule to that Act should have effect as respects the tenure of office, qualifications and employment of members of the court of directors: and by section 3 enacted that as from the appointed day the members of the said body corporate should be the members for the time being of the court of directors together with the person who for the time being should hold the capital stock of the Bank of England on behalf of the Treasury:

AND WHEREAS the Bank of England Act 1946 by section 3 further enacted that as from the appointed day all or any of the provisions of the Charters of the Bank of England might be revoked except in so far as they incorporate the Bank of England and that thereafter, subject to the provisions of that Act, the Bank of England should be constituted and regulated in accordance with so much of the said Charters as remained unrevoked and such other Charters as might from time to time be granted and accepted on behalf of the Bank of England by the court of directors:

AND WHEREAS by a Charter granted by His Majesty King George the Sixth in pursuance of section 3 of the Bank of England Act 1946 and dated the first day of March One thousand

nine hundred and forty-six the existing Charters of the Bank of England were revoked except in so far as they incorporate the Bank of England, constitute its capital stock, authorise it to have a common seal, to hold land and other property as therein mentioned and to sue and be sued:

AND WHEREAS the Bank of England Act 1998 by section 43 and Schedule 9 enacted that section 2 and subsection (2) of section 4 of, and Schedule 2 to, the Bank of England Act 1946 governing the composition, functions and proceedings of the court of directors and the tenure of office, qualifications and employment of its members should be repealed: and by section 1 enacted that there should continue to be a court of directors which should consist of a Governor, two Deputy Governors and sixteen directors of the Bank of England and that the provisions of Schedule 1 to that Act should have effect with respect thereto: and by sections 2 and 16 enacted that the functions of the court of directors should be to manage the Bank of England's affairs other than the formulation of monetary policy and to keep the procedures followed by the Monetary Policy Committee of the Bank of England under review: and by section 5 enacted that the court of directors should have custody of the Bank of England's seal which should only be used in accordance with the provisions of that section:

AND WHEREAS by the Bank of England Act 1998 (Commencement) Order 1998 the Treasury have appointed the first day of June One thousand nine hundred and ninety-eight as the day on which the Bank of England Act 1998 should come into force:

AND WHEREAS it is Our pleasure in pursuance of section 3 of the Bank of England Act 1946 to revoke the Charter of the Bank of England dated the first day of March One thousand nine hundred and forty-six, without prejudice to the preservation of the provisions of the Charter of the Bank of England dated the twenty-seventh day of July One thousand six hundred and ninety-four which incorporate the Bank of England, constitute its capital stock, authorise it to have a common seal, to hold land and other property as therein mentioned and to sue and be sued, and in place thereof to grant such new Charter as is herein set forth:

NOW THEREFORE know ye that We, taking the premises into Our consideration and of Our especial grace, certain knowledge and mere motion do, in pursuance of the Bank of England Act 1946 and of all other powers enabling Us in that behalf, by these Presents for Us, Our Heirs and Successors give, grant, ordain and declare as follows, that is to say:

1 As from the fifteenth day of June One thousand nine hundred and ninety-eight, and without prejudice to the preservation of the provisions of the Charter of the Bank of England dated the twenty-seventh day of July One thousand six hundred and ninety-four which incorporate the Bank of England, constitute its capital stock, authorise it to have a common seal, to hold land and other property as therein mentioned and to sue and be sued, the Charter of the Bank of England dated the first day of March One thousand nine hundred and forty-six shall be and the same is hereby revoked.

2 If at any time the Treasury direct that the capital stock of the Bank of England or any part thereof shall be transferred from the person nominated by them under section 1 of the

Bank of England Act 1946 to any other person nominated by them the said stock or such part thereof shall without any instrument of transfer vest in the person so nominated by them to be held by him on behalf of the Treasury accordingly.

3 Each person appointed on or after the fifteenth day of June One thousand nine hundred and ninety-eight as Governor, Deputy Governor or director of the Bank of England shall, as soon after his appointment to such office as may be convenient and without prejudice to his ability to execute or act in such office from the date of his appointment, make the declaration set out in that behalf in the Schedule to these presents. Which declaration may and shall be made before any one of Our Lord High Chancellor of Great Britain or Our Chancellor of the Exchequer or Our Lord Chief Justice of England or the Governor or a Deputy Governor of the Bank of England or before any preceding Governor or any preceding Deputy Governor.

IN WITNESS whereof We have caused these Our Letters to be made Patent

WITNESS Ourselves at Westminster the 15 day of June in the forty-seventh year of Our Reign

PHILLIPS

BY WARRANT UNDER THE QUEEN'S SIGN MANUAL

## SCHEDULE

### FORMS OF DECLARATION

#### *Form of declaration by the Governor or a Deputy Governor*

I, A B, having been appointed to the office of [Governor] [Deputy Governor] of the Corporation of the Governor and Company of the Bank of England do solemnly and sincerely declare that I will to the utmost of my power, by all lawful ways and means, endeavour to support and maintain the said Corporation and the liberties and privileges thereof: and in the execution of the said Office I will faithfully and honestly demean myself according to the best of my skill and understanding.

#### *Form of declaration by a director*

I, A B, having been appointed to the office of a director of the Corporation of the Governor and Company of the Bank of England do solemnly and sincerely declare that in the said office I will be indifferent and equal to all manner of persons: and I will give my best advice and assistance for the support and good Government of the said Corporation: and in the execution of the said office I will faithfully and honestly demean myself according to the best of my skill and understanding.

# BANK OF ENGLAND ACT 1998<sup>2</sup>

## CHAPTER 11

An Act to make provision about the constitution, regulation, financial arrangements and functions of the Bank of England, including provision for the transfer of supervisory functions; to amend the Banking Act 1987 in relation to the provision and disclosure of information; to make provision relating to appointments to the governing body of a designated agency under the Financial Services Act 1986; to amend Schedule 5 to that Act; to make provision relating to the registration of Government stocks and bonds; to make provision about the application of section 207 of the Companies Act 1989 to bearer securities; and for connected purposes.

[23rd April 1998]

### PART 1

#### CONSTITUTION, REGULATION AND FINANCIAL ARRANGEMENTS

##### *Constitution and regulation*

#### 1 Court of directors

- (1) There shall continue to be a court of directors of the Bank.
- [(2) The court shall consist of the following directors appointed by Her Majesty—
  - (a) a Governor,
  - (b) a Deputy Governor for financial stability,
  - [(ba) a Deputy Governor for markets and banking,]
  - (c) a Deputy Governor for monetary policy,
  - (d) a Deputy Governor for prudential regulation, and
  - (e) not more than 9 non-executive directors.]
- (3) . . .
- (4) Schedule 1 shall have effect with respect to the court.

---

<sup>2</sup> The text as printed here incorporates amendments made to the 1998 Act up to June 2018.

**[1A Power to alter membership of court of directors]**

[(1) The Treasury, after consulting the Governor of the Bank, may by order amend the list in section 1(2) so as to—

- (a) alter the title of a Deputy Governor;
- (b) add a Deputy Governor to the list;
- (c) remove a Deputy Governor from the list.

(2) An order under subsection (1)(a) or (c) must (by making saving provision or otherwise) secure that the alteration in the title of a Deputy Governor or the removal of a Deputy Governor from the list in section 1(2) does not have effect in relation to the individual (if any) who holds that office at the time the order is made.

(3) An order under subsection (1)(b) may also add the Deputy Governor to which the order relates to the list in—

- (a) section 9B(1) (membership of Financial Policy Committee);
- (b) section 13(2) (membership of Monetary Policy Committee);
- (c) section 30A(2) (membership of Prudential Regulation Committee).

(4) An order under subsection (1)(c) may also remove from any of those lists the Deputy Governor to which the order relates.

(5) Where an order under subsection (1) makes an amendment mentioned in column 1 of the following table, it may also make the amendment mentioned in the corresponding entry in column 2 of the table.

<i>Addition or removal of Deputy Governors</i>	<i>Corresponding change in membership of Committee</i>
Addition of one or more Deputy Governors to the list in section 9B(1)	Equal increase in the number of members appointed by the Chancellor of the Exchequer under section 9B(1)(e)
Removal of one or more Deputy Governors from the list in section 9B(1)	Equal reduction in the number of members appointed by the Chancellor of the Exchequer under section 9B(1)(e)
Addition of one or more Deputy Governors to the list in section	Equal reduction in the number of members appointed by the Governor of the Bank under section 13(2)(b)

13(2)	
Removal of one or more Deputy Governors from the list in section 13(2)	Equal increase in the number of members appointed by the Governor of the Bank under section 13(2)(b)
Addition of one or more Deputy Governors to the list in section 30A(2)	Equal increase in the minimum number of members appointed by the Chancellor of the Exchequer under section 30A(2)(g)
Removal of one or more Deputy Governors from the list in section 30A(2)	Equal reduction in the minimum number of members appointed by the Chancellor of the Exchequer under section 30A(2)(g)

(6) The power in subsection (5)—

(a) to make an equal reduction in the number of members appointed under section 9B(1)(e), 13(2)(b) or 30A(2)(g), includes power to remove the power to make those appointments where an equal reduction would reduce the number of members so appointed to zero,

(b) to make an equal increase in the number of members appointed under section 9B(1)(e), 13(2)(b) or 30A(2)(g), includes power to reinstate the power to make those appointments where it has previously been removed under paragraph (a).

(7) An order under subsection (1) may amend, repeal or revoke any provision made by or under any Act, including this Act, so as to make consequential provision.]

## 2 Functions of court of directors

(1) The court of directors of the Bank shall manage the Bank's affairs, other than the formulation of monetary policy.

(2) In particular, the court's functions under subsection (1) shall include[—

(a)] determining the Bank's objectives (including objectives for its financial management) and strategy,

[(b) the functions mentioned in section 3A(2) (the “oversight functions”)].

(3) In determining the Bank's objectives and strategy, the court's aim shall be to ensure the effective discharge of the Bank's functions.

(4) Subject to that, in determining objectives for the financial management of the Bank, the court's aim shall be to ensure the most efficient use of the Bank's resources.

[(5) Subsections (2) to (4) are subject to—

- (a) section 2A (Financial Stability Objective);
- (b) section 11 (objectives in relation to monetary policy);
- (c) Part 1A of the Financial Services and Markets Act 2000 (objectives and strategy of the Prudential Regulation Authority).]

### **[2A Financial Stability Objective]**

[(1) An objective of the Bank shall be to [protect and enhance] the stability of the financial [system] of the United Kingdom (the “Financial Stability Objective”).

(2) In pursuing the Financial Stability Objective the Bank shall aim to work with other relevant bodies (including the Treasury[and the Financial Conduct Authority]).

(3) . . .]

### **[2AA Macro-prudential measures: Article 458 of the capital requirements regulation]**

[(1) The Bank is responsible for the application of Article 458 of the capital requirements regulation so far as it relates to measures which are prescribed by order under section 9L (macro-prudential measures).

(2) The Treasury are responsible for the application of Article 458 of the capital requirements regulation so far as it relates to measures which are not so prescribed.]

[(3) The Bank must undertake (in relation to a measure falling within subsection (1)) the notification process required by Article 458 of the capital requirements regulation (“the Article 458 notification process”) in any case where it is requested to do so by the Financial Policy Committee in connection with—

- (a) a direction that the Committee has given or proposes to give under section 9H, or
- (b) recommendations that the Committee has made or proposes to make under section 9Q.

(4) The Treasury must undertake (in relation to a measure falling within subsection (2)) the Article 458 notification process in any case where they are requested to do so by the Financial Policy Committee in connection with recommendations that the Committee has made or proposes to make under section 9Q.

(5) Subsections (3) and (4) do not require the Bank or the Treasury to undertake the Article 458 notification process if—

- (a) the Financial Policy Committee revokes the request, or
  - (b) the Bank considers (in a case within subsection (3)), or the Treasury consider (in a case within subsection (4)), that the measure is incompatible with EU law.
- (6) Neither the Bank nor the Treasury may undertake the Article 458 notification process except in accordance with subsection (3) or (4).
- (7) Where the Bank undertakes the Article 458 notification process, it must consult the Treasury about the assessment required by Article 458(2)(f) of the capital requirements regulation.
- (8) Where the Financial Policy Committee requests the Treasury to undertake the Article 458 notification process, it must include in the request any information that would in its opinion be relevant to any notification by the Treasury.]

...

### **[3A Oversight]**

- [(1) ...
- (2) The [oversight functions of the court of directors] are—
- (a) keeping under review the Bank's performance in relation to—
    - (i) the Bank's objectives (that is, the objectives specified in relation to it in this Act[, the objectives specified in relation to the Prudential Regulation Authority in Part 1A of the Financial Services and Markets Act 2000] and the other objectives for the time being determined by the court of directors of the Bank),
    - (ii) the duty of the Financial Policy Committee under section 9C, . . .
    - [(iii) the Bank's strategy determined under section 2,
    - (iv) the Bank's financial stability strategy determined under section 9A, and
    - (v) the strategy of the Prudential Regulation Authority determined under section 2E of the Financial Services and Markets Act 2000;]
  - (b) monitoring the extent to which the objectives set by the court of directors of the Bank in relation to the Bank's financial management have been met;
  - (c) keeping under review the internal financial controls of the Bank with a view to securing the proper conduct of its financial affairs;
  - (d) the functions conferred on the [court of directors] by the provisions listed in subsection (4).

- (3) ...
- (4) The provisions referred to in subsection (2)(d) are—
- (a) section 9B (review of procedures followed by Financial Policy Committee);
  - (b) section 16 (review of procedures followed by Monetary Policy Committee);
  - (c) ...
  - (d) ...
  - (e) ...
  - (f) ...
  - (g) ...
  - (h) ...]

...

### **[[3C Reviews]**

[(1) In the discharge of any of its [oversight] functions, the [court of directors] may arrange—

- (a) for a review to be conducted under this section in relation to any matter by a person appointed by the [court of directors], and
- (b) for the person conducting the review to make one or more reports to the [court of directors].

[(1A) Where they consider that to do so would contribute to the discharge by the court of directors of any of its oversight functions, the non-executive directors of the Bank (or a majority of them) may arrange—

- (a) for a review to be conducted under this section in relation to any matter by a person appointed by those directors, and
- (b) for the person conducting the review to make one or more reports to the court of directors.]

(2) The persons who may be appointed to conduct a review include an officer or employee of the Bank.

(3) A review under this section is a “performance review” if it—

- (a) is arranged [in relation to the discharge of any of the court's] functions under section 3A(2)(a) and (b), and

- (b) relates to past events.
- (4) . . .
- (5) In the case of a performance review, [regard must be had] to the desirability of ensuring that sufficient time has elapsed—
  - (a) for the review to be effective, and
  - (b) to avoid the review having a material adverse effect on the exercise by the Bank of its functions.]

**[3D Publication of reports of performance reviews]**

- [(1) The Bank must give the Treasury a copy of any report made to the [court of directors] by a person appointed under section 3C to conduct a performance review (as defined by subsection (3) of that section).
- (2) Subject to subsection (3), the Bank must also publish the report.
- (3) Subsection (2) does not require the publication of information whose publication at the time when the report is made would in the opinion of the court of directors of the Bank be against the public interest.
- (4) Where the court of directors decides under subsection (3) that publication of information at the time when the report is made would be against the public interest, it must keep under consideration the question of whether publication of the information would still be against the public interest.
- (5) Where the court of directors decides that publication of any information is no longer against the public interest, the Bank must publish the information.
- (6) The Treasury must lay before Parliament a copy of any report or other information published by the Bank under this section.]

**[3E Recommendations resulting from review]**

- [(1) This section applies where a report made by a person appointed under section 3C to conduct a review makes recommendations to the Bank as to steps to be taken by it.
- (2) The [court of directors] must—
  - (a) monitor the Bank's response to the report, and
  - (b) if or to the extent that the Bank accepts the recommendations, monitor the implementation of the recommendations.]

### **[3F Oversight [functions]**

[(1) The documents to which the [court of directors] is to have access in the discharge of its [oversight] functions include documents considered, or to be considered, by the Financial Policy Committee[, the Monetary Policy Committee or the Prudential Regulation Committee].

(2) One or two members of the [court of directors] may attend any meeting of the Financial Policy Committee[, the Monetary Policy Committee or the Prudential Regulation Committee for the purposes of exercising its oversight functions], but a person attending by virtue of this subsection may not speak unless invited to do so by the person chairing the meeting.

[(2A) But a member of the court of directors who has any direct or indirect interest (including any reasonably likely future interest) in any dealing or business which falls to be considered by the Prudential Regulation Committee may not, under the powers conferred by this section—

- (a) obtain access to any documents relating to the dealing or business, or
- (b) attend any proceedings of the Prudential Regulation Committee relating to any question arising from its consideration of the dealing or business.]

(3) Subsection (2) does not affect—

- (a) anything done in relation to the Financial Policy Committee[, the Monetary Policy Committee or the Prudential Regulation Committee] by a member of that Committee who is also a member of the [court of directors],
- (b) the powers of the Financial Policy Committee under paragraph 13 of Schedule 2A, . . .
- (c) the powers of the Monetary Policy Committee under paragraph 13A of Schedule 3[, or
- (d) the powers of the Prudential Regulation Committee under paragraph 15(2) of Schedule 6A].]

## **4 Annual report by the Bank**

(1) As soon as practicable after the end of each of its financial years, the Bank shall make to the Chancellor of the Exchequer a report on its activities in that year.

(2) A report under this section shall, in particular, contain—

- [(a) a report by the court of directors on the matters which it reviews, monitors or otherwise considers in the performance of its oversight functions (as defined by section 3A(2)),]

- [(aa) a report by the court of directors on the activities of the Financial Policy Committee of the Bank, and]
  - (b) a copy of the [statements] for the year prepared under section 7(2) [and (2A)] and the report of the Bank's auditors on [them].
- (3) . . .
- (4) A report under this section shall also contain—
- (a) a statement of the rate or rates at which [non-executive directors] of the Bank have been remunerated in the financial year to which the report relates, and
  - (b) a statement of the Bank's objectives and strategy, as determined by the court of directors of the Bank, for the financial year in which the report is made.
- (5) The Bank shall publish every report under this section in such manner as it thinks appropriate.
- (6) The Chancellor of the Exchequer shall lay copies of every report under this section before Parliament.
- [(7) The Chancellor may comply with subsection (6) by laying a document containing a report under this section together with a report by the Prudential Regulation Authority under paragraph 19 of Schedule 1ZB to the Financial Services and Markets Act 2000.]

## **5 Custody and use of the seal**

- (1) The court of directors of the Bank shall have custody of the Bank's seal.
- (2) The seal shall only be affixed to an instrument if the affixation has been authorised by the court or by a sub-committee of the court acting in exercise of delegated authority.
- (3) The affixing of the seal shall be attested by the signature of—
- (a) two members of the court,
  - (b) one member of the court and the secretary to the court, or
  - (c) two other officers of the Bank authorised by the court for the purpose.

### *Financial arrangements*

## **6 Cash ratio deposits**

Schedule 2 (which makes provision about the maintenance of cash deposits with the Bank by certain financial institutions) shall have effect.

## 7 Accounts

- (1) The Bank shall keep proper accounts and records in relation to the accounts.
- (2) The Bank shall prepare for each of its financial years a statement of accounts consisting of—
  - (a) a balance sheet as at the last day of the year, and
  - (b) a profit and loss account.
- [(2A) The Bank shall also prepare for each of its financial years a statement of accounts in relation to—
  - (a) income received and assets accrued by the Bank by virtue of its functions as the Prudential Regulation Authority, and
  - (b) expenses and liabilities incurred by the Bank by virtue of its functions as the Prudential Regulation Authority.]
- (3) In preparing accounts under subsection (2), the Bank shall be subject to requirements corresponding to the relevant Companies Act requirements, except insofar as the accounts relate to the Issue Department.
- (4) The Bank may disregard a requirement to which it is subject under subsection (3) to the extent that it considers it [necessary to do so having regard to the Financial Stability Objective].
- [(4A) In preparing a statement under subsection (2A) the Bank must comply with any directions given by the Treasury as to—
  - (a) the information to be contained in the statement and the manner in which it is to be presented, and
  - (b) the methods and principles according to which the statement is to be prepared.]
- (5) The Bank shall appoint an auditor or auditors to audit its accounts, including any statement under subsection (2) [or (2A)].
- [(5A) The auditor's report on a statement under subsection (2A) must state whether the auditor is satisfied that the Bank has complied with the requirements of Part 3 of Schedule 1ZB to the Financial Services and Markets Act 2000 (Prudential Regulation Authority fees and penalties).]
- (6) As soon as practicable after receiving the report of its auditors on a statement prepared under subsection (2) [or (2A)], the Bank shall send a copy of—
  - (a) the report, and

(b) the statement,

to the Chancellor of the Exchequer.

(7) The Treasury may by notice in writing to the Bank require it to publish in such manner as it thinks fit such additional information relating to its accounts as the Treasury may specify in the notice, including information which the Bank has excluded under subsection (4) from a statement under subsection (2).

(8) The Treasury shall consult the Bank before giving a notice under subsection (7).

[(8A) A direction under subsection (4A) or a notice under subsection (7) may be revoked by a further direction or notice.]

(9) In subsection (3), the reference to the relevant Companies Act requirements is to the requirements to which the directors of a company which is a banking company for the purposes of [the Companies Act 2006] are for the time being subject under that Act [(except sections 412 and 413 (directors' benefits))] in relation to the preparation of accounts under [section 394] of that Act.

#### **[7ZA Audit: role of Comptroller and Auditor General]**

[(1) Before appointing an auditor or auditors under section 7(5), the Bank must consult the Comptroller and Auditor General (“the Comptroller”).

(2) The auditor or auditors appointed by the Bank must consult the Comptroller on the scope, timing and direction of the audit and on any audit plan (or any material revisions to an audit plan).

(3) The Comptroller—

(a) has a right of access at any reasonable time to any document relating to the audit of the Bank's accounts which the Comptroller may reasonably require, and

(b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably necessary.

(4) Subsection (3) applies only to documents in the custody or under the control of the Bank.

(5) An obligation imposed on a person as a result of the exercise of the powers conferred by subsection (3) is enforceable by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

(6) The Comptroller (or a person nominated by the Comptroller) may attend any proceedings of the Bank's audit committee which are concerned with the audit of the Bank's accounts.

(7) The “Bank's audit committee” means the committee or sub-committee within the Bank for the time being having responsibilities relating to the audit of the Bank's accounts.]

**[7A Accounts of companies wholly owned by the Bank]**

[(1) If the Bank considers it necessary to do so having regard to the Financial Stability Objective, the Bank may by direction to a qualifying company exclude the application to the qualifying company of any of the relevant Companies Act requirements.

(2) The relevant Companies Act requirements are the requirements to which the directors of the qualifying company would otherwise be subject under the Companies Act 2006 (except sections 412 and 413 (directors' benefits)) in relation to the preparation of accounts under section 394 of that Act.

(3) A direction under subsection (1) may relate to one or more specified accounting periods of the qualifying company, or to a specified accounting period and all subsequent accounting periods of the qualifying company.

(4) The Bank must consult the Treasury before giving a direction under subsection (1).

(5) The Treasury may by notice in writing to the Bank require it to publish in such manner as it thinks fit such information relating to the accounts of a qualifying company as the Treasury may specify in the notice.

(6) The information specified in a notice under subsection (5) may include information which as a result of a direction under subsection (1) was excluded from accounts prepared in accordance with the Companies Act 2006.

(7) The Treasury must consult the Bank before giving a notice under subsection (5).

(8) A direction under subsection (1) or a notice under subsection (5) may be revoked by a subsequent direction or notice (as the case may be).

(9) “Qualifying company” means any company which is wholly owned by the Bank other than—

(a) . . .

(b) a company which is a bridge bank for the purposes of section 12(3) of the Banking Act 2009.

(10) For the purposes of subsection (9), a company is wholly owned by the Bank if—

(a) it is a company of which no person other than the Bank or a nominee of the Bank is a member, or

(b) it is a wholly-owned subsidiary of a company within paragraph (a).]

**[7B Reports on Bank activities indemnified by Treasury]**

- [(1) This section applies where the Treasury give an indemnity or guarantee to the Bank in respect of an activity or series of activities undertaken by the Bank.
- (2) The Treasury may direct the Bank to prepare a financial report in relation to the activity or series of activities to which the indemnity or guarantee relates.
- (3) A direction under subsection (2) may include directions as to—
- (a) the financial years for which a report is to be prepared,
  - (b) the information to be contained in the report and the manner in which it is to be presented, and
  - (c) the methods and principles according to which any statement of financial information to be contained in the report is to be prepared.
- (4) A direction under subsection (2) may be revoked by a further direction.
- (5) The Bank must send any report that it prepares under subsection (2) to the Treasury.
- (6) The Treasury may send the report to the Comptroller and Auditor General (“the Comptroller”) for review.
- (7) The review is to consider such matters as may be agreed between the Comptroller and the Treasury.
- (8) The Comptroller—
- (a) has a right of access at any reasonable time to any document the Comptroller may reasonably require for the purposes of the review, and
  - (b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably necessary.
- (9) Subsection (8) applies only to documents in the custody or under the control of—
- (a) the Bank;
  - (b) the auditor or auditors appointed by the Bank under section 7(5).
- (10) An obligation imposed on a person as a result of the exercise of the powers conferred by subsection (8) is enforceable by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.]

**[7C Accounts of Bank companies carrying on activities indemnified by Treasury]**

[(1) This section applies where the Treasury give an indemnity or guarantee to a company (“the company”) in which the Bank has an interest, in respect of an activity or series of activities undertaken by the company.

(2) The Treasury may direct the company to send to the Comptroller and Auditor General (“the Comptroller”) accounts prepared by it in accordance with the Companies Act 2006 and any direction given by the Bank under section 7A(1).

(3) A direction given under subsection (2)—

- (a) may relate to all financial years, or to financial years specified in the direction;
- (b) may be revoked by a further direction.

(4) Where a direction given under subsection (2) has effect in relation to a financial year, the company is exempt from the requirements of Part 16 of the Companies Act 2006 (audit) for that financial year, and its balance sheet must include a statement to that effect.

(5) The Comptroller must examine any accounts sent to the Comptroller under this section with a view to satisfying himself or herself that the accounts have been properly prepared in all material respects in accordance with the bases of preparation identified in the accounts.

(6) After completing the examination the Comptroller must—

- (a) certify the accounts and issue a report,
- (b) send the certified accounts and the report to the Treasury, and
- (c) if not satisfied that the accounts have been properly prepared in all material respects in accordance with the bases of preparation identified in the accounts, report to the House of Commons.

(7) The Treasury must lay the copy of the certified accounts and the report before Parliament.

(8) For the purposes of this section, the Bank has an interest in a company if—

- (a) the Bank, or a nominee of the Bank, is a member of the company, or
- (b) the company is a subsidiary undertaking of the Bank, within the meaning of section 1162 of the Companies Act 2006.]

**[7D Examination by Comptroller and Auditor General]**

[(1) The Comptroller and Auditor General (“the Comptroller”) may carry out examinations into—

- (a) the economy, efficiency and effectiveness with which the Bank has used its resources in discharging its functions;
  - (b) the economy, efficiency and effectiveness with which a Bank company has used its resources in discharging its functions.
- (2) An examination under this section may be limited to such functions (however described) of the Bank or the Bank company as the Comptroller considers appropriate.
- (3) An examination under this section is not to be concerned with the merits of the Bank's policy objectives.
- (4) An examination under this section is not to be concerned with the merits of—
  - (a) policy decisions taken by the Financial Policy Committee, the Monetary Policy Committee or the Prudential Regulation Committee;
  - (b) policy decisions taken by a committee or other body within the Bank for the time being having responsibilities for the supervision of payment systems, settlement systems[, central securities depositories] or clearing houses, so far as the decisions relate to that supervision.
- (5) Subject to subsection (6), an examination under this section is not to be concerned with the merits of policy decisions taken by a committee or other body within the Bank for the time being having responsibilities for the exercise of any of the Bank's resolution functions, so far as the decisions relate to those functions.
- (6) Where the Bank has exercised relevant resolution functions in relation to a financial institution, subsection (5) does not prevent an examination under this section being concerned with the merits of policy decisions within that subsection which are relevant to the Bank's exercise of its resolution functions in relation to that institution (whether or not those policy decisions are also relevant to other financial institutions).
- (7) “Relevant resolution functions” are—
  - (a) any of the stabilisation powers;
  - (b) any of the Bank's functions (other than its functions as the Prudential Regulation Authority) under or by virtue of—
    - (i) Part 2 or 3, or section 233, of the Banking Act 2009,
    - (ii) Part 6 of the Financial Services (Banking Reform) Act 2013.
- (8) Before carrying out an examination under this section, the Comptroller must consult the court of directors of the Bank.
- (9) The Comptroller may report to the House of Commons the results of any examination carried out by the Comptroller under this section.

(10) For the purposes of this section—

“Bank company” means—

- (a) a company which is a subsidiary undertaking of the Bank, within the meaning of section 1162 of the Companies Act 2006;
- (b) a company not within paragraph (a) in respect of which a direction under section 7C(2) has effect;

“resolution functions” means the Bank's functions (other than its functions as the Prudential Regulation Authority) under or by virtue of—

- (a) Parts 1 to 3, and section 233, of the Banking Act 2009,
- (b) Part 6 of the Financial Services (Banking Reform) Act 2013,
- (c) the Bank Recovery and Resolution (No 2) Order 2014 (SI 2014/3348);

“stabilisation powers” has the same meaning as in the Banking Act 2009 (see section 1(4) of that Act).

(11) Section 6 of the National Audit Act 1983 (Comptroller may carry out economy, efficiency and effectiveness examinations) does not apply to the Bank or a Bank company.]

#### **[7E Memorandum of understanding]**

[(1) The Bank and the Comptroller must prepare and maintain a memorandum of understanding about examinations under section 7D.

(2) The memorandum must in particular include provision—

- (a) as to functions of the Bank in respect of which the Comptroller will not usually consider it appropriate to carry out an examination;
- (b) identifying the committees or other bodies referred to in section 7D(4)(b) and (5);
- (c) establishing a procedure for resolving in a timely fashion any dispute between the Bank and the Comptroller as to whether a matter is (under section 7D(3) to (6)) a matter with which an examination under section 7D is not to be concerned;

(d) for the publication of the views of the Bank and the Comptroller as to whether a matter is such a matter, in cases where a dispute between them cannot be resolved.]

**[7F Review by the Treasury]**

[(1) The Treasury may appoint an independent person to conduct a review of the economy, efficiency and effectiveness with which the Bank has used its resources in discharging its functions as the Prudential Regulation Authority.

(2) “Independent” means appearing to the Treasury to be independent of the Bank.

(3) A review under this section may be limited to such of the Bank's functions as the Prudential Regulation Authority (however described) as the Treasury may specify in appointing the person to conduct it.

(4) A review under this section is not to be concerned with the merits of the Bank's general policy or principles in pursuing the Bank's objectives (including its objectives as the Prudential Regulation Authority).

(5) On completion of the review, the person conducting it must make a written report to the Treasury—

(a) setting out the result of the review, and

(b) making such recommendations (if any) as the person considers appropriate.

(6) A copy of the report must be—

(a) laid before Parliament, and

(b) published in such manner as the Treasury think fit.

(7) Any expenses reasonably incurred in the conduct of the review are to be met by the Treasury out of money provided by Parliament.]

**[7G Right to obtain documents and information]**

[(1) A person conducting an examination under section 7D or a review under section 7F—

(a) has a right of access at any reasonable time to any document the person may reasonably require for the purposes of the examination or review, and

(b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably necessary for that purpose.

(2) Subsection (1) applies to documents in the custody or under the control of—

(a) the Bank;

(b) the auditor or auditors appointed by the Bank under section 7(5).

(3) In the case of an examination under section 7D(1)(b), subsection (1) also applies to documents in the custody or under the control of—

- (a) the company to which the examination relates;
- (b) the auditor or auditors of that company.

(4) An obligation imposed on a person as a result of the exercise of the powers conferred by subsection (1) is enforceable by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.]

### **[7H Restriction on disclosing information]**

[Section 353A of the Financial Services and Markets Act 2000 (FCA not to disclose certain information received from the Bank) applies in relation to the Comptroller and Auditor General and the National Audit Office as it applies in relation to the Financial Conduct Authority.]

## **8 Payments in lieu of dividends**

(1) In section 1 of the Bank of England Act 1946, in subsection (4), (amount payable to Treasury in lieu of dividends on Bank stock), for the words from “the sum” to the end there is substituted “a sum equal to 25 per cent of the Bank's net profits for its previous financial year, or such other sum as the Treasury and the Bank may agree.”

(2) In that section, at the end there is inserted—

“(6) In subsection (4) of this section, the reference to the Bank's net profits for its previous financial year is to the profits shown in the audited accounts for that year less the amount of the tax charge so shown.”

(3) In Schedule 1 to that Act (supplemental provisions), after paragraph 11 there is inserted—

### **“11A**

(1) If, when a payment falls to be made under section 1(4) of this Act, the Bank's accounts for the previous financial year have not been audited, the payment shall be made on the basis of the Bank's estimate of the relevant amounts.

(2) If an amount estimated under sub-paragraph (1) of this paragraph differs from the amount shown in the audited accounts, an appropriate adjustment shall be made to the next payment under section 1(4) of this Act to be made after the difference becomes apparent.”

(4) In that Schedule, for paragraph 14 there is substituted—

**“14**

Any sum paid by the Bank to the Treasury in lieu of dividends shall be allowed as a deduction in assessing the Bank to corporation tax for the accounting period by reference to which the payment is calculated.”

*Supplementary***9 Consequential amendments**

- (1) In section 14 of the National Debt Reduction Act 1786 and section 32 of the Life Annuities Act 1808, for “deputy governor” there is substituted “deputy governors”.
- (2) In section 55 of the National Debt Act 1870, the first reference to the Deputy Governor of the Bank of England shall be treated as a reference to a Deputy Governor of the Bank of England.
- (3) In section 3(3) of the Bank of England Act 1946, after “this Act” there is inserted “and the Bank of England Act 1998”.

**[PART 1A****FINANCIAL STABILITY***Financial stability strategy of the Bank***[9A Financial stability strategy]**

- [(1) The court of directors must—
  - (a) determine the Bank's strategy in relation to the Financial Stability Objective (its “financial stability strategy”), and
  - (b) from time to time review, and if necessary revise, the strategy.
- (2) Before determining or revising the Bank's financial stability strategy, the court of directors must consult about a draft of the strategy or of the revisions—
  - (a) the Financial Policy Committee, and
  - (b) the Treasury.
- (3) The Financial Policy Committee may at any time make recommendations to the court of directors as to the provisions of the Bank's financial stability strategy.
- (4) The court of directors must determine the financial stability strategy of the Bank within 6 months of the coming into force of this section.

- (5) The court of directors must carry out and complete a review of the Bank's financial stability strategy before the end of each relevant period.
- (6) The relevant period is 3 years beginning with the date on which the previous review was completed, except that in the case of the first review the relevant period is the period of 3 years beginning with the date on which the strategy was determined under subsection (4).
- (7) The Bank must publish its financial stability strategy.
- (8) If the financial stability strategy is revised, the Bank must publish the revised strategy.
- (9) Publication under subsection (7) or (8) is to be in such manner as the Bank thinks fit.]

***Financial Policy Committee of the Bank***

**[9B Financial Policy Committee]**

- [(1) There is to be a [committee] of the Bank (the “Financial Policy Committee”) consisting of—
- (a) the Governor of the Bank,
  - [(b) the Deputy Governor for financial stability,
  - (ba) the Deputy Governor for markets and banking,
  - (bb) the Deputy Governor for monetary policy,
  - (bc) the Deputy Governor for prudential regulation,]
  - (c) the Chief Executive of the FCA,
  - (d) one member appointed by the Governor of the Bank after consultation with the Chancellor of the Exchequer,
  - (e) [5] members appointed by the Chancellor of the Exchequer, and
  - (f) a representative of the Treasury.
- (2) The member appointed under subsection (1)(d) is to be a person who has executive responsibility within the Bank for the analysis of threats to financial stability.
- (3) Before appointing a person under subsection (1)(e), the Chancellor of the Exchequer must—
- (a) be satisfied that the person has knowledge or experience which is likely to be relevant to the Committee's functions, and

- (b) consider whether the person has any financial or other interests that could substantially affect the functions as member that it would be proper for the person to discharge.
- (4) The [court of directors of the Bank] must keep the procedures followed by the Financial Policy Committee under review.
- (5) Schedule 2A has effect with respect to the Financial Policy Committee.]

### **[9C Objectives of the Financial Policy Committee]**

- [(1) The Financial Policy Committee is to exercise its functions with a view to—
  - (a) contributing to the achievement by the Bank of the Financial Stability Objective, and
  - (b) subject to that, supporting the economic policy of Her Majesty's Government, including its objectives for growth and employment.
- (2) The responsibility of the Committee in relation to the achievement by the Bank of the Financial Stability Objective relates primarily to the identification of, monitoring of, and taking of action to remove or reduce, systemic risks with a view to protecting and enhancing the resilience of the UK financial system.
- (3) Those systemic risks include, in particular—
  - (a) systemic risks attributable to structural features of financial markets, such as connections between financial institutions,
  - (b) systemic risks attributable to the distribution of risk within the financial sector, and
  - (c) unsustainable levels of leverage, debt or credit growth.
- (4) Subsections (1)(a) and (2) do not require or authorise the Committee to exercise its functions in a way that would in its opinion be likely to have a significant adverse effect on the capacity of the financial sector to contribute to the growth of the UK economy in the medium or long term.
- (5) In this Part “systemic risk” means a risk to the stability of the UK financial system as a whole or of a significant part of that system.
- (6) For the purposes of subsection (5) it is immaterial whether the risk arises in the United Kingdom or elsewhere.
- (7) In subsection (3)(c)—

“credit growth” means the growth in lending by the financial sector to individuals in the United Kingdom and businesses carried on in the United Kingdom;

“debt” means debt owed to the financial sector by individuals in the United Kingdom and businesses carried on in the United Kingdom;

“leverage” means the leverage of the financial sector in the United Kingdom.]

#### **[9D Specification of matters relevant to economic policy]**

[(1) The Treasury may by notice in writing to the Financial Policy Committee specify for the purposes of section 9C(1)(b) what the economic policy of Her Majesty's Government is to be taken to be.

(2) The Treasury must specify under subsection (1) the matter mentioned there—

(a) before the end of the period of 30 days beginning with the day on which section 9C comes into force, and

(b) at least once in every calendar year following that in which the first notice under that subsection is given.

(3) Where the Treasury give notice under this section they must—

(a) publish the notice in such manner as they think fit, and

(b) lay a copy of it before Parliament.]

#### **[9E Recommendations by Treasury]**

[(1) The Treasury may at any time by notice in writing to the Financial Policy Committee make recommendations to the Committee about—

(a) matters that the Committee should regard as relevant to the Committee's understanding of the Bank's Financial Stability Objective;

(b) the responsibility of the Committee in relation to the achievement of that objective;

(c) the responsibility of the Committee in relation to support for the economic policy of Her Majesty's Government, including its objectives for growth and employment;

(d) matters to which the Committee should have regard in exercising its functions.

(2) The Treasury must make recommendations under subsection (1)(a) or (b) (“recommendations about the objective”)—

- (a) before the end of the period of 30 days beginning with the day on which this section comes into force, and
  - (b) at least once in every calendar year following that in which the first recommendations about the objective are made.
- (3) The Committee must respond to any recommendations made to it under subsection (1) by notifying the Treasury, in relation to each recommendation, of one or more of the following—
- (a) action that the Committee has taken in accordance with the recommendation;
  - (b) if or to the extent that the recommendation does not relate to immediate action, the Committee's intention to act in accordance with it;
  - (c) whether or not the recommendation relates to immediate action, the Committee's reasons for not intending to act in accordance with it.
- (4) Notification under subsection (3) must be given or confirmed in writing.
- (5) The Treasury must—
- (a) publish in such manner as they think fit any notice given under subsection (1) or notification received under subsection (3), and
  - (b) lay a copy of it before Parliament.]

### **[9F Other general duties]**

- [(1) In the exercise of its functions, other than its functions under section 9A(2) or (3), the Financial Policy Committee must have regard to the Bank's financial stability strategy.
- (2) In working with the FCA or the PRA or exercising functions in relation to either of them, the Committee must, so far as it is possible to do so while complying with section 9C(1), seek to avoid exercising the Committee's functions in a way that would prejudice—
- (a) the advancement by the FCA of any of its operational objectives, or
  - (b) the advancement by the PRA of any of its objectives.
- (3) In the exercise of its functions, the Committee must also have regard to—
- (a) the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction;

- (b) the contribution to the achievement by the Bank of the Financial Stability Objective that the Committee can make by disclosing its views about possible systemic risks or disclosing other information about possible systemic risks;
- (c) the international obligations of the United Kingdom, particularly where relevant to the exercise of the powers of the Committee in relation to the FCA or the PRA.]

### **[9G Functions of the Financial Policy Committee]**

[(1) The functions of the Financial Policy Committee are—

- (a) monitoring the stability of the UK financial system with a view to identifying and assessing systemic risks;
- (b) giving directions under section 9H;
- (c) making recommendations under sections 9O to 9R;
- (d) preparing financial stability reports under section 9W.

(2) The court of directors may, with the consent of the Treasury, arrange for specified functions of the Bank to be discharged by the Financial Policy Committee.]

### *Directions by Financial Policy Committee*

### **[9H Directions to FCA or PRA requiring macro-prudential measures]**

[(1) The Financial Policy Committee may give a direction to the FCA or the PRA (“the regulator”) requiring the regulator to exercise its functions so as to ensure the implementation, by or in relation to a specified class of regulated persons, of a macro-prudential measure described in the direction.

(2) “Regulated person” means—

- (a) in relation to the FCA—
  - (i) an authorised person within the meaning of FSMA 2000,
  - (ii) a recognised investment exchange within the meaning of that Act, or
  - (iii) an EEA market operator as defined by section 312D of that Act;
- (b) in relation to the PRA, a PRA-authorised person within the meaning of that Act.

(3) “Macro-prudential measure” is to be read in accordance with section 9L.

(4) The direction may relate to all regulated persons or to regulated persons of a specified description, but may not relate to a specified regulated person.

(5) The direction—

(a) may refer to the opinion of the regulator or require or authorise the exercise of a discretion by the regulator;

(b) may be expressed to remain in force for a specified period or until revoked.

(6) The direction may not require its provisions to be implemented by specified means or within a specified period, but may include recommendations as to the means to be used and the timing of implementation.

(7) A recommendation made under subsection (6) may be expressed to be one to which section 9Q(3) (duty to comply or explain) applies.

(8) The direction may not require the regulator to do anything that it has no power to do, but the existence of the direction is relevant to the exercise of any discretion conferred on the regulator.

(9) The direction may specify particular matters to which the regulator is or is not to have regard in complying with the direction, but those matters must be specified in relation to all regulated persons or a class of regulated person rather than a specified regulated person.

(10) The direction may refer to a publication issued by the FCA, the PRA, another body in the United Kingdom or an international organisation, as the publication has effect from time to time.]

[(11) Before giving a direction under this section, the Financial Policy Committee—

(a) must consider whether the measure is one to which Article 458 of the capital requirements regulation applies, and

(b) if the Committee is of the opinion that it is, may request the Bank to complete the notification process required by that Article.]

### **[9I Compliance with directions under section 9H]**

[(1) The regulator must comply with a direction given to it under section 9H as soon as reasonably practicable.

[(1A) But where a direction under section 9H concerns the implementation of a measure to which Article 458 of the capital requirements regulation applies, the regulator—

(a) is not required to comply with the direction unless it has been notified by the Financial Policy Committee that the measure is authorised in accordance with that Article, and

(b) must then comply with the direction as soon as reasonably practicable.]

(2) An order under section 9L may, in relation to cases where the regulator is complying with a direction under section 9H, exclude or modify any procedural requirement that would otherwise apply under FSMA 2000 in relation to the exercise by the regulator of its functions in pursuance of the direction.

(3) The regulator to which a direction under section 9H is given must give the Financial Policy Committee one or more reports on how it is complying or has complied with the direction.

(4) The Financial Policy Committee may give directions to the regulator specifying the times by which reports required by subsection (3) must be given to the Committee.

[(4A) For the purposes of subsection (1A), a measure is authorised in accordance with Article 458 of the capital requirements regulation if the notification process required by that Article has been completed and any of the following applies—

(a) the period during which the European Commission may issue a proposal for an implementing act to reject the draft measure has expired and no such proposal has been issued,

(b) where the European Commission has issued a proposal for an implementing act to reject the draft measure, the period during which the Council of the European Union may adopt a decision in the form of an implementing act to reject the draft measure has expired without any such decision being adopted, or

(c) the measure falls within Article 458(10).]

(5) “Regulator” has the same meaning as in section 9H.]

### **[9J Revocation of directions under section 9H]**

[(1) The Financial Policy Committee may at any time by notice to the regulator revoke a direction under section 9H.

(2) A direction under section 9H is to be taken to be revoked if the measure to which it relates ceases to be a macro-prudential measure, but this is subject to any provision made under section 9L(4)(e).

(3) The revocation of a direction under section 9H does not affect the validity of anything previously done in accordance with it.

(4) “Regulator” has the same meaning as in section 9H.]

**[9K Further provisions about directions under section 9H]**

- [(1) Each of the following must be in writing—
- (a) a direction under section 9H;
  - (b) a notice revoking such a direction;
  - (c) a report under section 9I(3).
- (2) The Financial Policy Committee must give the Treasury a copy of any direction under section 9H or any notice revoking such a direction.
- (3) The Treasury may, if they think fit, lay before Parliament a copy of a direction under section 9H or a notice revoking such a direction.
- (4) Where a direction under section 9H, or a notice revoking such a direction, is included in a record published under section 9U, the Treasury must, if they have not already done so, lay before Parliament a copy of the direction or notice in the form in which it is published in the record.]

**[9L Macro-prudential measures]**

- [(1) For the purposes of section 9H a “macro-prudential measure” is a measure prescribed by the Treasury by order.
- (2) Before making an order under this section, the Treasury must—
- (a) consult the Financial Policy Committee, or
  - (b) if the Treasury consider that the delay involved in consulting the Committee would be prejudicial to the stability of the UK financial system, consult the Governor of the Bank.
- (3) In prescribing a measure, the order must specify whether the measure is prescribed in relation to the FCA, the PRA, or both.
- (4) An order under this section—
- (a) may make different provision for different cases;
  - (b) may confer a discretion on the Financial Policy Committee, the FCA or the PRA;
  - (c) may refer to rules made by the FCA or the PRA;
  - (d) may refer to a publication issued by the FCA, the PRA, another body in the United Kingdom or an international organisation, as the publication has effect from time to time;

- (e) may contain transitional provisions and savings relating to the coming into force of any provision of the order or to the ceasing to be in force of any temporary provision made by the order.]

### **[9M Statements of policy by Financial Policy Committee]**

[(1) In relation to each macro-prudential measure prescribed under section 9L, the Financial Policy Committee must prepare and maintain a written statement of the general policy that it proposes to follow in relation to the exercise of its power of direction under section 9H so far as it relates to that measure.

(2) The Committee may at any time alter or replace a statement maintained under this section.

(3) The Bank must publish each statement maintained under this section.

(4) Publication is to be in such manner as the Bank thinks fit.

(5) Nothing in this section is to be regarded as preventing the Financial Policy Committee from exercising its power of direction under section 9H in relation to a macro-prudential measure, where it considers it necessary to do so by reason of urgency, before it has prepared a statement under this section in relation to that measure.]

### **[9N Parliamentary control of orders under section 9L]**

[(1) Except as provided by subsection (2), an order under section 9L is not to be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

(2) An order under section 9L may be made without a draft having been laid and approved as mentioned in subsection (1) if the order contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without a draft being so laid and approved.

(3) An order under section 9L made in accordance with subsection (2)—

- (a) must be laid before Parliament after being made, and

- (b) ceases to have effect at the end of the relevant period unless before the end of that period the order is approved by a resolution of each House of Parliament (but without affecting anything done under the order or the power to make a new order).

(4) The “relevant period” is a period of 28 days beginning with the day on which the order is made.

(5) In reckoning the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than 4 days.]

### *Recommendations by Financial Policy Committee*

#### **[9O Making of recommendations within the Bank]**

- (1) The Financial Policy Committee may make recommendations within the Bank.
- (2) The recommendations may, in particular, relate to—
- (a) the provision by the Bank of financial assistance to financial institutions;
  - (b) the exercise by the Bank of its functions in relation to payment systems, settlement systems[, clearing houses and central securities depositories].
- (3) The Committee may not make recommendations about—
- (a) the provision by the Bank of financial assistance in relation to a particular financial institution, or
  - (b) the exercise by the Bank of its powers under Parts 1 to 3 of the Banking Act 2009 in relation to a particular institution.
- (4) The recommendations must be made or confirmed in writing.]
- [(5) Recommendations by the Committee to the PRA are to be made under section 9Q (and not under this section).]

#### **[9P Recommendations to Treasury]**

- (1) The Financial Policy Committee may make recommendations to the Treasury.
- (2) The recommendations may, in particular, relate to the exercise by the Treasury of their power to make orders under—
- (a) section 9L (macro-prudential measures),
  - (b) section 22(1) or (1A) of FSMA 2000 (regulated activities),
  - (c) section 22A(1) of that Act (designation of activities requiring prudential regulation by PRA),
  - (d) section 137D(1)(b) of that Act (purposes for which FCA may make product intervention rules), or

- (e) section 165A(2)(d) of that Act (additional persons who may be required by PRA to provide information).
- (3) The recommendations must be made or confirmed in writing.
- (4) The Committee may make a recommendation under subsection (2)(e) only if it considers that the exercise by the Treasury of their power to make an order under section 165A(2)(d) of FSMA 2000 in the manner proposed is desirable for the purposes of the exercise by the Committee of its functions.
- (5) Before giving a recommendation under subsection (2)(e), the Committee must consult the Treasury.]

### **[9Q Recommendations to FCA and PRA]**

- [(1) The Financial Policy Committee may make recommendations to the FCA and the PRA about the exercise of their respective functions.
- (2) The recommendations may relate to all regulated persons or to regulated persons of a specified description, but may not relate to the exercise of the functions of the FCA or the PRA in relation to a specified regulated person.
- (3) If the recommendations are expressed to be recommendations to which this subsection applies, the body to which they are made must as soon as reasonably practicable—
  - (a) act in accordance with the recommendations, or
  - (b) if to any extent it does not, notify the Committee of the extent to which it has not acted in accordance with the recommendations and of the reasons for its decision.
- (4) The recommendations, and any notification under subsection (3)(b), must be made or confirmed in writing.

[(4A) Before making recommendations under this section, the Financial Policy Committee—

- (a) must consider whether acting in accordance with the recommendations would involve a measure to which Article 458 of the capital requirements regulation applies, and
- (b) if the Committee is of the opinion that it would, may—
  - (i) where the measure falls within section 2AA(1), request the Bank to complete the notification process required by that Article, or
  - (ii) where the measure falls within section 2AA(2), request the Treasury to complete that process.

(4B) If the body to which recommendations under this section are made is of the opinion that the implementation of the recommendations would involve a measure to which Article 458 of the capital requirements regulation applies, that body must—

- (a) state that opinion to the Financial Policy Committee, and
- (b) indicate to the Financial Policy Committee whether it intends to act in accordance with the recommendations if the measure is authorised in accordance with Article 458.

(4C) Subsection (4B)(b) is to be read in accordance with section 9I(4A).]

(5) “Regulated person” has the same meaning as in section 9H.]

### **[9R Recommendations to other persons]**

[(1) The Financial Policy Committee may make recommendations to persons other than those mentioned in sections 9O to 9Q.

(2) The recommendations must be made or confirmed in writing.]

### *Explanation*

### **[9S Duty to prepare explanation]**

[(1) In connection with the exercise of any of the specified powers, the Financial Policy Committee must prepare an explanation of—

- (a) the reasons for the Committee's decision to exercise the power, in the way in which it is being exercised, and
- (b) the Committee's reasons for believing that the exercise of the power, in the way in which it is being exercised, is compatible with the duties of the Committee under the following provisions—
  - (i) section 9C(1) (as read with section 9C(4)), and
  - (ii) section 9F.

(2) The specified powers are—

- (a) the power to give a direction under section 9H;
- (b) the power to make recommendations under section 9O, so far as relating to the exercise of the Bank's functions in relation to payment systems, settlement systems[, clearing houses and central securities depositories];

- (c) the power to make recommendations under section 9P, so far as relating to the exercise by the Treasury of their power to make orders under any of the provisions mentioned in subsection (2) of that section;
  - (d) the power to make recommendations under section 9Q.
- (3) The explanation required by subsection (1) in relation to the duty in section 9F(3)(a) must include an estimate of the costs and an estimate of the benefits that would arise from compliance with the direction or recommendation in question, unless in the opinion of the Committee it is not reasonably practicable to include such an estimate.]

### *Review*

#### **[9T Duty to review directions and recommendations]**

- (1) The Financial Policy Committee must—
- (a) before the end of each review period, review each direction given by it under section 9H, other than a direction revoked before the end of the review period, and
  - (b) prepare a summary of its conclusions.
- (2) A review period is—
- (a) in relation to the first review, the period of 12 months beginning with the day on which the direction was given, and
  - (b) in relation to subsequent reviews, the period of 12 months beginning with the day on which the previous review was completed.
- (3) The Financial Policy Committee must maintain arrangements for the review at regular intervals of any recommendations that it has made under any of sections 9O to 9R and are of continuing relevance.
- (4) The purpose of a review is—
- (a) in the case of a direction, to consider whether the direction ought to be revoked, and
  - (b) in the case of a recommendation, to consider whether the recommendation ought to be withdrawn.]

*Publication of record of meetings*

**[9U Publication of record of meetings]**

[(1) The Bank must publish a record of each meeting of the Financial Policy Committee before the end of the period of 6 weeks beginning with the day of the meeting.

(2) The record must specify any decisions taken at the meeting (including decisions to take no action) and must set out, in relation to each decision, a summary of the Committee's deliberations.

(3) The decisions referred to in subsection (2) include in particular a decision—

(a) to give or revoke a direction under section 9H;

(b) to make recommendations under any of sections 9O to 9R;

[(c) to make or revoke a request under section 2AA(3) or (4);

(d) made under the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014].

(4) Where a decision has been made to give or revoke a direction under section 9H, the record must include the text of the direction or of the notice of revocation.

(5) Where a decision has been made to make recommendations under any of sections 9O to 9R, the record must include the recommendations.

(6) Where since the previous meeting the Committee has received a notification under section 9Q(3)(b), the record must include the notification.

(7) The information required by subsections (1) and (2) does not include information identifying particular members of the Committee.

(8) Subsections (1) to (6) do not require the publication of—

(a) information about any recommendations made under 9O(2)(a);

(b) information whose publication within the time required by subsection (1) would in the opinion of the Committee be against the public interest;

(c) information about any decision under paragraph (b);

(d) information about a decision to give a direction under section 9H which has been revoked before the record of the meeting at which it was given is published;

(e) information about the decision to revoke a direction where information about the direction is withheld under paragraph (d);

- [(f) information about a decision to make a request under section 2AA(3) or (4) which has been revoked before the record of the meeting at which it was given is published;
  - (g) information about the decision to revoke a request under section 2AA(3) or (4) where information about the request is withheld under paragraph (f)].
- (9) Publication under this section or section 9V is to be in such manner as the Bank thinks fit.]

### **[9V Deferred publication]**

- (1) Where the Financial Policy Committee decides under subsection (8)(b) of section 9U that publication of information within the time required by subsection (1) of that section would be against the public interest—
- (a) it must consider whether to fix a date as the earliest date on which the information may be published, and
  - (b) if it does not fix a date, it must keep under consideration the question whether publication of the information would still be against the public interest.
- (2) The Committee must from time to time determine the procedures that it will follow in complying with the duty in subsection (1)(b).
- (3) Where the Committee—
- (a) fixes a date under subsection (1)(a) as the earliest date on which any information may be published, or
  - (b) decides under subsection (1)(b) that publication of any information is no longer against the public interest,

the Bank must publish the information at the time when it next publishes under section 9U(1) the record of a meeting of the Committee.]

### ***Financial stability reports by Financial Policy Committee***

#### **[9W Financial stability reports by Financial Policy Committee]**

- (1) The Financial Policy Committee must prepare and publish reports relating to financial stability (“financial stability reports”).
- (2) Two financial stability reports must be published in each calendar year.
- (3) A financial stability report must include—

- (a) the Committee's view of the stability of the UK financial system at the time when the report is prepared,
  - (b) an assessment of the developments that have influenced the current position,
  - (c) an assessment of the strengths and weaknesses of the UK financial system,
  - (d) an assessment of risks to the stability of the UK financial system, and
  - (e) the Committee's view of the outlook for the stability of the UK financial system.
- (4) A financial stability report must also include—
- (a) a summary of the activities of the Committee in the reporting period, and
  - (b) an assessment of the extent to which the exercise by the Committee of its functions (both during the reporting period and previously) has succeeded during the reporting period in achieving the objectives set out in section 9C(1)(a) and (b).
- (5) If during the reporting period the Committee has made any decision in relation to which section 9S requires the preparation of an explanation, the financial stability report must include the required explanation.
- (6) If during the reporting period the Committee has completed the review of a direction or recommendation, the financial stability report must include a summary of the review.
- (7) The reporting period is the period since the date of the previous financial stability report, except that in the case of the first financial stability report it is the period since the time when this section came fully into force.
- (8) Nothing in subsections (3) to (6) is to be regarded as requiring the Committee to include in a financial stability report any information whose publication would in the Committee's opinion be against the public interest.
- (9) The Committee must give a copy of each financial stability report to the Treasury.
- (10) The Treasury must lay before Parliament a copy of each financial stability report.
- (11) Publication of a financial stability report is to be in such manner as the Bank thinks fit.]

### *Meetings between Governor and Chancellor of the Exchequer*

#### **[9X Meetings between Governor and Chancellor of the Exchequer]**

- [(1) As soon as reasonably practicable after the publication by the Financial Policy Committee of a financial stability report, the Governor of the Bank and the Chancellor of the

Exchequer must meet to discuss the report and any other matters relating to the stability of the UK financial system that they consider it appropriate to discuss.

- (2) The Treasury must publish a record of each meeting required by subsection (1) before the end of the period of 6 weeks beginning with the day of the meeting.
- (3) Publication under subsection (2) is to be in such manner as the Treasury think fit.
- (4) Subsection (2) does not require the publication of information whose publication within the time required by that subsection would in the opinion of the Treasury be against the public interest.
- (5) Before publishing the record of a meeting required by subsection (1), or deciding under subsection (4) not to publish such a record, the Treasury must consult the Bank about the record and its publication.]

*Power of Bank to require FCA . . . to provide information*

**[9Y Directions requiring information or documents]**

- [(1) The Bank may exercise the powers conferred by this section where it considers that information or documents are reasonably required in connection with the exercise by the Bank of its functions in pursuance of the Financial Stability Objective.
- (2) The Bank may give a direction to the FCA [requiring it]—
  - (a) to provide the Bank with specified information or information of a specified description, or
  - (b) to produce to the Bank specified documents or documents of a specified description.
- (3) The direction may relate to information or documents which are held by persons other than the [FCA] and which the [FCA] has power to obtain or whose production the [FCA] has power to require.
- (4) Any information or documents to which the direction relates are—
  - (a) where the information or documents are held by a person in relation to whom the powers conferred by subsections (1) and (3) of section 165 of FSMA 2000 are exercisable, to be taken to be information or documents to which that section applies by virtue of subsection (4) of that section, . . .
  - (b) . . .
- (5) The information or documents must be provided or produced before the end of such period as may be specified.

- (6) The Bank may require any information provided under this section to be provided in such form as it may require.
- (7) The Bank may require—
- (a) any information provided, whether in a document or otherwise, to be verified in such manner as it may require;
  - (b) any document produced to be authenticated in such manner as it may require.]

**[9Z Further provisions about directions under section 9Y]**

- (1) In the exercise of its functions under section 9Y, the Bank must have regard to the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction.
- (2) Before giving a direction under section 9Y to the FCA . . . , the Bank must consult the [FCA].
- (3) A direction under section 9Y must be in writing, and may be revoked by a notice in writing.
- (4) As soon as practicable after giving a direction under section 9Y, the Bank must publish the direction in such manner as it thinks appropriate for bringing the direction to the attention of persons (other than the [FCA]) who may be affected by it.
- (5) Subsection (4) does not require the publication of information whose publication at the time required by that subsection would in the opinion of the Bank be against the public interest.
- (6) Where the Bank decides under subsection (5) that publication of any information would be against the public interest, it must from time to time review that decision and if it subsequently decides that publication is no longer against the public interest it must comply with subsection (4).]

*Supplementary*

**[9ZA Interpretation of Part 1A]**

[In this Part—

“the FCA” means the Financial Conduct Authority;

“financial assistance” has the meaning given by section 257(1) of the Banking Act 2009;

“the Financial Policy Committee” means the Financial Policy Committee of the Bank of England;

“the financial sector” means financial institutions generally;

“FSMA 2000” means the Financial Services and Markets Act 2000;

“the PRA” means the Prudential Regulation Authority;

“systemic risk” has the meaning given by section 9C(5);

“the UK economy” means the economy of the United Kingdom;

“the UK financial system” means the financial system of the United Kingdom.]

## **PART II**

### **MONETARY POLICY**

#### *Role of the Bank*

#### **10 Operational responsibility**

In section 4(1) of the Bank of England Act 1946 (power of the Treasury to give directions to the Bank), at the end there is inserted “, except in relation to monetary policy”.

#### **11 Objectives**

In relation to monetary policy, the objectives of the Bank of England shall be—

- (a) to maintain price stability, and
- (b) subject to that, to support the economic policy of Her Majesty's Government, including its objectives for growth and employment.

#### **12 Specification of matters relevant to objectives**

(1) The Treasury may by notice in writing to the Bank specify for the purposes of section 11—

- (a) what price stability is to be taken to consist of, or
- (b) what the economic policy of Her Majesty's Government is to be taken to be.

(2) The Treasury shall specify under subsection (1) both of the matters mentioned there—

- (a) before the end of the period of 7 days beginning with the day on which this Act comes into force, and
  - (b) at least once in every period of 12 months beginning on the anniversary of the day on which this Act comes into force.
- (3) Where the Treasury give notice under this section they shall—
- (a) publish the notice in such manner as they think fit, and
  - (b) lay a copy of it before Parliament.

### *Monetary Policy Committee of the Bank*

#### **13 Monetary Policy Committee**

- (1) There shall be a committee of the Bank, to be known as the Monetary Policy Committee of the Bank of England, which shall have responsibility within the Bank for formulating monetary policy.
- (2) The Committee shall consist of—
- [(a) the Governor of the Bank,
  - (aa) the Deputy Governor for financial stability,
  - [(aaa) the Deputy Governor for markets and banking,]
  - (ab) the Deputy Governor for monetary policy,]
  - (b) [one member (to be known as the Chief Economist of the Bank)] appointed by the Governor of the Bank after consultation with the Chancellor of the Exchequer, and
  - (c) 4 members appointed by the Chancellor of the Exchequer.
- [(3) The member appointed under subsection (2)(b) shall be a person who carries out monetary policy analysis within the Bank.]
- [(4) Before appointing a person under subsection (2)(c) the Chancellor of the Exchequer must—
- (a) be satisfied that the person has knowledge or experience which is likely to be relevant to the Committee's functions, and
  - (b) consider whether the person has any financial or other interests that could substantially affect the functions as member that it would be proper for the person to discharge.]
- (5) Schedule 3 shall have effect with respect to the Committee.

## **14 Publication of statements about decisions**

(1) As soon as [reasonably] practicable after each meeting of the Monetary Policy Committee, the Bank shall publish a statement as to whether it was decided at the meeting that the Bank should take any action, other than action by way of intervening in financial markets, for the purpose of meeting its objectives under section 11 and, if it was, what the action is.

(2) If, at any meeting, the Committee decides that the Bank should intervene in financial markets, it shall also consider at the meeting whether immediate publication of the decision would be likely to impede or frustrate the achievement of the intervention's purpose.

(3) If the Committee decides under subsection (2) that immediate publication of a decision would not have the effect mentioned there, the Bank shall, when it publishes a statement under subsection (1) about the meeting, publish a statement as to what action by way of intervening in financial markets the Committee has decided the Bank should take.

(4) If the Committee decides under subsection (2) that immediate publication of a decision would have the effect mentioned there, it shall keep under consideration the question of whether publication of the decision would still have that effect.

(5) As soon as [reasonably] practicable after the Committee has decided that publication of a decision which has not been the subject of a statement under subsection (3) would no longer have the effect mentioned in subsection (2), the Bank shall publish a statement as to what action by way of intervening in financial markets the Committee decided the Bank should take and when the decision was made.

(6) Publication under this section shall be in such manner as the Bank thinks fit.

## **15 Publication of minutes of meetings**

(1) [As soon as reasonably practicable after] each meeting of the Monetary Policy Committee, the Bank shall publish minutes of the meeting . . .

(2) Subsection (1) shall not apply to minutes of any proceedings relating to—

- (a) a decision to intervene in financial markets, or
- (b) a decision about the publication of a decision to intervene in financial markets,

unless the Committee has decided that publication of the decision to intervene would not be likely, or would no longer be likely, to impede or frustrate the achievement of the intervention's purpose.

(3) Minutes of proceedings relating to—

- (a) a decision to intervene in financial markets, or

- (b) a decision about the publication of a decision to intervene in financial markets, shall, if not required to be published [as soon as reasonably practicable after] the meeting, be published by the Bank [as soon as reasonably practicable after] a statement about the decision to intervene is published under section 14(5).
- (4) Minutes published under this section shall record, in relation to any decision of the Committee, the voting preference of the members who took part in the vote on the decision.
- [(4A) The Bank shall exclude from minutes published under this section information which relates to proceedings of the Financial Policy Committee if the Bank considers that publication of that information would be against the public interest.]
- (5) Publication under this section shall be in such manner as the Bank thinks fit.

## **16 Functions of [court of directors]**

- (1) The [court of directors of the Bank] shall keep the procedures followed by the Monetary Policy Committee under review.
- (2) In particular, [the court's function] under subsection (1) shall include determining whether [the Monetary Policy Committee] has collected the regional, sectoral and other information necessary for the purposes of formulating monetary policy.
- (3) . . .

### *Information and reports*

## **17 Power to obtain information**

- (1) The Bank may by notice in writing require an undertaking to which this section applies to provide the Bank with such information as may be specified in the notice, being information about the relevant financial affairs of the undertaking which the Bank considers it necessary or expedient to have for the purposes of its functions under this Part.
- (2) A notice under subsection (1) may require information to be provided—
- (a) in such form or manner as may be specified in the notice;
  - (b) at such time or times as may be so specified;
  - (c) in relation to such period or periods as may be so specified.
- [(3) An undertaking is one to which this section applies if—
- (a) it has a place of business in the United Kingdom; and

- (b) it falls within subsection (3A), (3B), (3C) or (3D).
- (3A) An undertaking falls within this subsection if it is a deposit-taker.
- (3B) An undertaking falls within this subsection if it is not a deposit-taker but it—
- (a) falls within the subsector “other monetary financial institution”, as defined by paragraph 2.48 of Annex A to Council Regulation (EC) No 2223/96,
  - (b) carries on a business of granting credits secured on land used for residential purposes,
  - (c) has issued a debt security, or
  - (d) has acted as an agent in connection with arranging or managing the issue of a debt security.
- (3C) An undertaking falls within this subsection if it is a financial holding company.
- (3D) An undertaking falls within this subsection if it is not a deposit-taker but continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987 or a permission under [Part 4A] of the Financial Services and Markets Act 2000.]
- (4) The Treasury may by order provide which financial affairs of an undertaking are relevant for the purposes of this section, and may make different provision for different undertakings or classes of undertaking.
- (5) The Treasury may by order amend [subsections (3) to (3D)].
- (6) Before making an order under this section, the Treasury shall consult—
- (a) the Bank,
  - (b) the [Statistics Board],
  - (c) such persons as appear to them to be representative of persons likely to be materially affected by the order, and
  - (d) such other persons as they consider appropriate.
- [(7) “Deposit taker” means—
- (a) a person who has permission under [Part 4A] of the Financial Services and Markets Act 2000 to accept deposits; or
  - (b) an EEA firm of the kind mentioned in paragraph 5(b) or (c) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits or other repayable funds.

(7A) “Debt security” means any instrument creating or acknowledging indebtedness (including a government or public security).

(7B) Subsections (7) and (7A) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

[(7C) “Financial holding company” has the meaning given by Article 4(1)(20) of the capital requirements regulation.]

(7D) “Undertaking” has the meaning given by [section 1161(1) of the Companies Act 2006].]

## 18 Reports

(1) The Bank shall prepare and publish reports in accordance with the provisions of this section.

(2) A report under this section shall contain—

- (a) a review of the monetary policy decisions published by the Bank in the period to which the report relates,
- (b) an assessment of the developments in inflation in the economy of the United Kingdom in the period to which the report relates, and
- (c) an indication of the expected approach to meeting the Bank's objectives under section 11.

(3) A report under this section shall relate to—

- (a) a period of 3 months, or
- (b) such other period as the Treasury and the Monetary Policy Committee may agree.

(4) Periods to which reports under this section relate shall be successive, the first such period commencing on such day within the period of 3 months ending with the day on which this Act comes into force as the Treasury shall, after consultation with the Bank, specify in writing to it.

(5) No report under this section shall be published without the approval of the Monetary Policy Committee.

(6) A report under this section shall be published as soon as [reasonably] practicable after the end of the period to which it relates and in such manner as the Bank thinks fit.

### *Treasury's reserve powers*

#### **19 Reserve powers**

(1) The Treasury, after consultation with the Governor of the Bank, may by order give the Bank directions with respect to monetary policy if they are satisfied that the directions are required in the public interest and by extreme economic circumstances.

(2) An order under this section may include such consequential modifications of the provisions of this Part relating to the Monetary Policy Committee as the Treasury think fit.

(3) A statutory instrument containing an order under this section shall be laid before Parliament after being made.

(4) Unless an order under this section is approved by resolution of each House of Parliament before the end of the period of 28 days beginning with the day on which it is made, it shall cease to have effect at the end of that period.

(5) In reckoning the period of 28 days for the purposes of subsection (4), no account shall be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than 4 days.

(6) An order under this section which does not cease to have effect before the end of the period of 3 months beginning with the day on which it is made shall cease to have effect at the end of that period.

(7) While an order under this section has effect, section 11 shall not have effect.

### *Supplementary*

#### **20 Interpretation of Part II**

In this Part, “the Monetary Policy Committee” means the Monetary Policy Committee of the Bank of England.

...

**[PART IIIA  
PRUDENTIAL REGULATION]**

**[30A Prudential Regulation Committee]**

[(1) There is to be a committee of the Bank known as the Prudential Regulation Committee of the Bank of England.

(2) The Prudential Regulation Committee is to consist of—

- (a) the Governor of the Bank,
- (b) the Deputy Governor for financial stability,
- (c) the Deputy Governor for markets and banking,
- (d) the Deputy Governor for prudential regulation,
- (e) the Chief Executive of the Financial Conduct Authority,
- (f) one member appointed by the Governor of the Bank with the approval of the Chancellor of the Exchequer, and
- (g) at least 6 members appointed by the Chancellor of the Exchequer.

(3) The functions of the Prudential Regulation Committee are—

- (a) its functions by virtue of section 2A of the Financial Services and Markets Act 2000 (which provides for the Bank's functions as the Prudential Regulation Authority to be exercised by the Bank acting through the Prudential Regulation Committee), and
- (b) the functions conferred on it by this Act.

(4) Schedule 6A has effect with respect to the Prudential Regulation Committee.]

**[30B Recommendations by Treasury]**

[(1) The Treasury may at any time by notice in writing to the Prudential Regulation Committee make recommendations to the Committee about aspects of the economic policy of Her Majesty's Government to which the Committee should have regard—

- (a) when considering how to advance the objectives of the Prudential Regulation Authority, and
- (b) when considering the application of the regulatory principles set out in section 3B of the Financial Services and Markets Act 2000.

(2) The Treasury must make recommendations under subsection (1) at least once in each Parliament.

(3) The Treasury must—

- (a) publish in such manner as they think fit any notice given under subsection (1), and
- (b) lay a copy of it before Parliament.]

### **[30C Operational independence]**

[(1) The Bank must make arrangements to ensure compliance with—

- (a) article 4.7 of the capital requirements directive, and
- (b) article 3.3 of the recovery and resolution directive,

(which require resolution functions and supervisory functions to be operationally independent of one another).

(2) The Bank must prepare and issue a statement of its arrangements under subsection (1).

(3) If there are material changes to the arrangements, it must prepare and issue a revised statement.

(4) The Bank must consult the Treasury before issuing a statement under subsection (2) or a revised statement under subsection (3).

(5) If it appears to the Treasury that any action proposed to be taken by the Bank would be incompatible with obligations of the United Kingdom under the provisions mentioned in subsection (1)(a) or (b), the Treasury may direct the Bank not to take that action.

(6) If it appears to the Treasury that any action which the Bank has power to take is required for the purpose of implementing those obligations, the Treasury may direct the Bank to take that action.

(7) In this section—

“the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms;

“the recovery and resolution directive” means Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.]

## PART IV

### MISCELLANEOUS AND GENERAL

...

#### *General*

#### **37 Restriction on disclosure of information**

Schedule 7 (which restricts the disclosure of information obtained for monetary policy or cash ratio deposit purposes) shall have effect.

#### **38 Offences in relation to supplying information to the Bank**

(1) A person who fails without reasonable excuse to comply with any requirement imposed on him under section 17(1) or paragraph 9 of Schedule 2 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) If after conviction of an offence under subsection (1) a person continues the failure for which he was convicted, he shall be guilty of a further offence under that subsection and liable on summary conviction to be punished accordingly.

(3) A person who in purported compliance with a requirement imposed on him under section 17(1) or paragraph 9 of Schedule 2 provides information which he knows to be false or misleading in a material particular, or recklessly provides information which is false or misleading in a material particular, shall be guilty of an offence and liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both, or

(b) on summary conviction, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the statutory maximum, or to both.

#### **39 Offences by bodies corporate**

(1) Where an offence under this Part committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

## **40 Orders**

(1) Any power of the Treasury to make an order under this Act shall be exercisable by statutory instrument.

(2) An order under—

[section 1A(1),]

section 17(4) or (5),

paragraph 1(2) or 5 of Schedule 2, or

paragraph 3(2) of Schedule 7,

shall not be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

(3) A statutory instrument containing an order under—

section 23(2),

paragraph 2(2) or 8 of Schedule 2,

paragraph 1(5) of Schedule 4, or

paragraph 3(3) of Schedule 7,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) A statutory instrument containing an order under section 33 shall be subject to annulment in pursuance of a resolution of the House of Commons.

[(4A) Section 9N contains its own provisions about parliamentary procedure in relation to an order under section 9L.]

(5) Section 19 contains its own provisions about parliamentary procedure in relation to an order under that section.

## **[41 General interpretation]**

[In this Act—

“the Bank” means the Bank of England;

“the capital requirements regulation” means Regulation (EU) No 575/2013 of the European Parliament and of the Council;

[“central securities depository” has the meaning given by point (1) of Article 2(1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories].]

## **42 Transitional provisions and savings**

Schedule 8 (transitional provisions and savings) shall have effect.

## **43 Repeals**

The enactments and instruments specified in Schedule 9 are hereby repealed or revoked to the extent specified in the final column of that Schedule.

### *Final provisions*

## **44 Extent**

- (1) This Act extends to Northern Ireland.
- (2) Section 33 extends to the Channel Islands and the Isle of Man.
- (3) The extent of any amendment, repeal or revocation by this Act is the same as that of the enactment amended, repealed or revoked.

## **45 Commencement**

This Act shall come into force on such day as the Treasury may by order appoint.

## **46 Short title**

This Act may be cited as the Bank of England Act 1998.

**SCHEDULE 1 Court of Directors****Section 1***Terms of office***[1**

- (1) Appointment as Governor of the Bank shall be for a period of 8 years.
- (2) Appointment as Deputy Governor of the Bank shall be for a period of 5 years.
- (3) A person may not be appointed—
  - (a) as Governor, more than once, or
  - (b) as Deputy Governor, more than twice.
- (4) A person appointed as Governor or Deputy Governor of the Bank shall work exclusively for the Bank; and for this purpose work in an office that an enactment requires to be held by the Governor or a Deputy Governor is to be taken to be work for the Bank.]

**2**

[(1)] Appointment as [non-executive director] of the Bank shall be for a period of [4 years, or such shorter period as may be specified in the appointment].

[(2)] If it appears to Her Majesty that in the circumstances it is desirable to do so, Her Majesty may, before the end of the term for which a person is appointed as non-executive director, extend the person's term of office on one occasion for a specified period of not more than 6 months.

(3) If a person whose term of office is extended under sub-paragraph (2) is subsequently re-appointed as non-executive director—

- (a) the length of the term of his or her re-appointment (or, if the person is re-appointed more than once, of the first re-appointment following the extension) is to be reduced by a period equal to the extension, but
- (b) the term of that re-appointment may itself be extended under sub-paragraph (2).]

**3**

...

**4**

A person appointed as Governor, Deputy Governor or [non-executive director] of the Bank may resign his office by written notice to the Bank.

### *Qualification for appointment*

#### **5**

(1) A person is disqualified for appointment as Governor, Deputy Governor or [non-executive director] of the Bank if he is a Minister of the Crown or a person serving in a government department in employment in respect of which remuneration is payable out of money provided by Parliament.

[(2) An officer or employee of the Bank, other than a person holding office under section 9B(1)(e), is disqualified for appointment as non-executive director of the Bank.]

#### **[6**

(1) The fact that a person has held office as Governor of the Bank does not disqualify that person from appointment as Deputy Governor or non-executive director of the Bank.

(2) The fact that a person has held office as Deputy Governor or non-executive director of the Bank does not disqualify that person from re-appointment to that office or for appointment to the other office or as Governor of the Bank, but this is subject to paragraph 1(3)(b).]

### *Removal from office*

#### **7**

(1) A person appointed as Governor or Deputy Governor of the Bank shall vacate office if he becomes a person to whom paragraph 5(1) applies.

(2) A person appointed as [non-executive director] of the Bank shall vacate office if he becomes a person to whom paragraph 5(1) or (2) applies.

#### **8**

[(1)] The Bank may, with the consent of the Chancellor of the Exchequer, remove a person from office as Governor, Deputy Governor or [non-executive director] of the Bank if it is satisfied—

(a) that he has been absent from meetings of the court for more than 3 months without the consent of the court,

(b) that he has become bankrupt[, that a debt relief order (under Part 7A of the Insolvency Act 1986) has been made in respect of him], that his estate has been sequestrated or that he has made an arrangement with or granted a trust deed for his creditors, or

(c) that he is unable or unfit to discharge his functions as a member.

[(2) In relation to the Deputy Governor for prudential regulation, the reference in subparagraph (1)(c) to inability or unfitness to discharge functions as member of the court of

directors is to be read as including a reference to inability or unfitness to discharge functions as [chief executive for prudential regulation (see Schedule 6A)].]

### ***Powers***

#### **9**

The court may act notwithstanding the existence of one or more vacancies among its members.

#### **10**

The court may appoint such sub-committees as it thinks fit.

#### **11**

[(1)] The court may delegate such duties and powers as it thinks fit to—

- (a) a member of the court,
- (b) any officer, [employee] or agent of the Bank,
- (c) a sub-committee consisting of—
  - (i) members of the court, or
  - (ii) one or more members of the court and one or more of the officers, [employees] and agents of the Bank,

[(d) a committee consisting of officers, employees or agents of the Bank].

[(2) The duties and powers that may be delegated under this paragraph[—

- (a) include duties and powers conferred on the court of directors by section 9A (financial stability strategy), but
- (b) except as mentioned in paragraph (a), do not include duties and powers that are by any enactment expressly imposed or conferred on the court of directors].]

[(3) The court of directors retains responsibility for a duty or power which it delegates under this paragraph.]

### ***Meetings***

#### **12**

(1) The court shall meet at least [7 times in each calendar year].

[(2) Either of the following may summon a meeting at any time on giving such notice as the circumstances appear to require—

- (a) the Governor of the Bank (or in his absence a Deputy Governor), and

- (b) the chair of the court.]

*[Publication of record of meetings*

**12A**

- (1) The Bank must publish a record of each meeting of the court—
  - (a) before the end of the period of 6 weeks beginning with the day of the meeting, or
  - (b) if no meeting of the court is subsequently held during that period, before the end of the period of 2 weeks beginning with the day of the next meeting.
- (2) The record must specify any decisions taken at the meeting (including decisions to take no action) and must set out, in relation to each decision, a summary of the court's deliberations.
- (3) Sub-paragraphs (1) and (2) do not require the publication of information whose publication within the time required by sub-paragraph (1) would in the opinion of the court be against the public interest.
- (4) Publication under this section is to be in such manner as the Bank thinks fit.]

*Proceedings*

**13**

- (1) At a meeting of the court, the proceedings shall be regulated as follows.
- (2) . . .
- [(3) The Chancellor of the Exchequer may designate—
  - (a) a member of the court to chair its meetings (“the chair of the court”), and
  - (b) one or more members of the court as deputies to chair its meetings in the absence of the chair of the court.]
- [(3A) But a member of the court who is the Governor or a Deputy Governor of the Bank may not be designated under paragraph (a) or (b) of sub-paragraph (3).]
- (4) If a member of the court has any direct or indirect interest in any dealing or business with the Bank—
  - (a) he shall disclose his interest to the court at the time of the dealing or business being negotiated or transacted, and

(b) he shall have no vote in relation to the dealing or business, unless the court has resolved that the interest does not give rise to a conflict of interest.

(5) A member of the court shall have no vote in relation to any question arising which touches or concerns him but shall withdraw and be absent during the debate of any matter in which he is concerned.

(6) Subject to sub-paragraphs [(3)] to (5), the court shall determine its own procedure [(including quorum)].

### *Remuneration*

#### **14**

[(A1) The remuneration of the Governor and Deputy Governors of the Bank is to be determined by a sub-committee of the court of directors consisting of 3 or more non-executive directors of the Bank.]

(1) A person appointed as Governor or Deputy Governor of the Bank shall be entitled to be paid by the Bank such remuneration as [that sub-committee] may determine.

(2) The Bank may pay, or create and maintain a fund for the payment of, pensions or capital grants to members, or former members, of the court who have rendered exclusive services to the Bank.

#### **15**

A [non-executive director] of the Bank shall be entitled to be paid by the Bank such remuneration as the Bank may determine with the approval of the Chancellor of the Exchequer.

## **SCHEDULE 2 Cash Ratio Deposits**

### **Section 6**

#### *Eligible institutions*

#### **1**

[(1) Each deposit-taker is an eligible institution for the purposes of this Schedule.

(1A) “Deposit-taker” has the meaning given in section 17, except that it does not include—

(a) a credit union;

(b) a friendly society;

- (c) a person who has permission to accept deposits under [Part 4A] of the Financial Services and Markets Act 2000 only in the course of effecting or carrying out contracts of insurance in accordance with that permission; or
  - (d) an EEA firm of the kind mentioned in paragraph 5(c) of Schedule 3 to that Act.
- (1B) “Credit union” has the meaning given—
- (a) by the Credit Unions Act 1979; or
  - (b) in Northern Ireland, by the Credit Unions (Northern Ireland) Order 1985.
- (1C) “Friendly society” means—
- (a) a society which is registered within the meaning of the Friendly Societies Act 1974; or
  - (b) a society incorporated under the Friendly Societies Act 1992.]
- (2) The Treasury may by order amend [sub-paragraphs (1) to (1C)] as they think fit.

### *Liability base*

#### **2**

- (1) For the purposes of this Schedule, the liability base of an eligible institution at any time is the aggregate of those sterling and foreign currency liabilities of the institution which are eligible liabilities.
- (2) The Treasury may by order define eligible liabilities for the purposes of this paragraph and make provision about the calculation of any description of eligible liability, including provision for the amount of a liability of any description to be treated as reduced by the amount of an asset of any description.

### *Call notices*

#### **3**

- (1) The Bank may give an eligible institution notice under this paragraph.
- (2) Notice under this paragraph (“a call notice”) shall be in writing and shall specify—
- (a) the period to which it relates, and
  - (b) the amount which, in relation to that period, is the institution's depositable amount.
- (3) The period to be specified under sub-paragraph (2)(a)—

- (a) shall be a period of 6 months beginning at least 4 working days after the date of the notice, and
- (b) shall not include any part of a period specified in a previous call notice given to the institution concerned.

#### *Calculation of depositable amount*

#### **4**

- (1) In the case of any call notice, the amount to be specified under paragraph 3(2)(b) is the amount, or, as the case may be, the sum of the amounts, produced by multiplying so much of the institution's average liability base for the reference period as falls into each value band by the ratio applicable to that band.
- (2) The Bank may use such method to calculate an institution's average liability base for the purposes of this paragraph as it thinks fit, and may use different methods for different institutions.
- (3) For the purposes of this paragraph, value bands and the ratios applicable to them are such as may be specified under paragraph 5.

#### *Value bands and applicable ratios*

#### **5**

The Treasury may by order specify for the purposes of paragraph 4 value bands and the ratios applicable to them.

#### *Effect of call notice*

#### **6**

- (1) Where the Bank has given an eligible institution a call notice, then, if at any time in the period to which the notice relates the following conditions are met, namely—
  - (a) the institution is an eligible institution, and
  - (b) the institution does not have on deposit in the appropriate account with the Bank the amount specified in the notice as its depositable amount in relation to that period,the Bank may by notice in writing require the institution to make a payment in lieu of deposit.
- (2) A notice under sub-paragraph (1) shall specify what period it covers, and the period specified must—
  - (a) fall within the period to which the call notice relates, and

- (b) be a period throughout which the conditions mentioned in sub-paragraph (1) have been met.
- (3) The amount which the Bank may by a notice under sub-paragraph (1) require an institution to pay is an amount equal to interest for the period covered by the notice, at 4% over the benchmark rate, on the average shortfall during that period.
- (4) The Bank may use such method to calculate the average shortfall as it thinks fit.
- (5) In sub-paragraph (1)(b), the reference to the appropriate account, in relation to an eligible institution, is to such account of the institution with the Bank as is designated by the Bank for the purposes of this Schedule.
- (6) For the purposes of sub-paragraph (3), the shortfall, at any time, is the amount which the institution needs to deposit to prevent the condition mentioned in sub-paragraph (1)(b) applying.

*[Benchmark rate of interest*

**7**

- (1) The benchmark rate of interest for the purposes of paragraph 6(3) is the Bank rate.
- (2) In this paragraph, “Bank rate” means—
- (a) the official Bank rate determined by the Monetary Policy Committee of the Bank, or
  - (b) where an order under section 19 of this Act is in force, any equivalent rate determined by the Treasury under that section.]

**8**

The Treasury may by order amend or replace paragraph 7.

*Power to obtain information*

**9**

- (1) The Bank may by notice in writing require an eligible institution to provide the Bank with such information as may be specified in the notice, being information which the Bank considers it necessary or expedient to have for the purposes of its functions under this Schedule.
- (2) A notice under sub-paragraph (1) may require information to be provided—
- (a) in such form or manner as may be specified in the notice;

- (b) at such time or times as may be so specified;
- (c) in relation to such period or periods as may be so specified.

### *Orders*

#### **10**

Before making an order under this Schedule, the Treasury shall consult—

- (a) the Bank,
- (b) such persons as appear to them to be representative of persons likely to be materially affected by the order, and
- (c) such other persons as they think fit.

#### **11**

In exercising the power to make orders under paragraph 2(2) or 5, the Treasury shall have regard to the financial needs of the Bank.

### *Interpretation*

#### **12**

In this Schedule—

“reference period”, in relation to a call notice, means the period of 6 months ending immediately before the month in which the notice is given; and

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

### *Modifications for new entrants*

#### **13**

(1) In its application to the first call notice to be given to an institution or society after it becomes an eligible institution, this Schedule shall have effect with the following modifications.

(2) In paragraph 3(3)(a), after “period of” there is inserted “not more than”.

(3) In paragraph 7(2), for “the end of the reference period for the relevant call notice” there is substituted “such time before the beginning of the period to which the relevant call notice relates as the Bank thinks fit”.

(4) In paragraph 12, in the definition of “reference period”, for the words from “the period” to the end there is substituted “such period prior to the notice as the Bank thinks fit”.

**[SCHEDULE 2A Financial Policy Committee]*****[Terms of office of appointed members]*****1**

(1) Appointment under section 9B(1)(d) or (e) as a member of the Financial Policy Committee is to be for a period of 3 years, but this is subject to sub-paragraph (2) and to paragraph 3.

(2) Initially some appointments may be for shorter and different periods so as to secure that appointments expire at different times.

**2**

(1) A person may not be appointed as a member of the Committee under section 9B(1)(e) more than twice.

(2) For this purpose an appointment which by virtue of paragraph 1(2) is for a period of less than 3 years is to be disregarded.

**3**

(1) If it appears to the Chancellor of the Exchequer that in the circumstances it is desirable to do so, the Chancellor may, before the end of the term for which a person is appointed as a member of the Committee under section 9B(1)(e), extend the person's term of office on one occasion for a specified period of not more than 6 months.

(2) The term being extended may be the person's first or second term or, in a case where paragraph 2(2) allows a third term, the person's third term.

(3) If a person whose first term of office is extended is subsequently re-appointed under section 9B(1)(e)—

(a) the length of the second term is to be reduced by a period equal to the extension of the first term, but

(b) the second term may itself subsequently be extended under sub-paragraph (1).

(4) In a case where a person's second term of office is extended and paragraph 2(2) allows a third term, sub-paragraph (3) is to be read as if the references to first and second terms were references to second and third terms respectively.

**4**

(1) A person appointed under section 9B(1)(d) or (e) may resign the office by written notice to the Bank.

(2) Where the notice relates to a person appointed under section 9B(1)(e), the Bank must give a copy of the notice to the Treasury.

**5**

The terms and conditions on which a person holds office as a member of the Committee appointed under section 9B(1)(e) are to be such as the [court of directors of the Bank] may determine.

***Qualification for appointment*****6**

(1) The following persons are disqualified for appointment under section 9B(1)(d) or (e)—

- (a) a Minister of the Crown;
- (b) a person serving in a government department in employment in respect of which remuneration is paid out of money provided by Parliament.

[(2) The following persons are disqualified for appointment under section 9B(1)(e)—

- (a) a member of the Monetary Policy Committee of the Bank appointed under section 13(2)(c);
- (b) a member of the Prudential Regulation Committee of the Bank appointed under section 30A(2)(g).]

***Removal of appointed members*****7**

A person appointed under section 9B(1)(d) or (e) vacates office on becoming a person to whom paragraph 6(1)(a) or (b) applies.

**8**

A person appointed under section 9B(1)(d) vacates office on ceasing to have executive responsibility within the Bank for the analysis of threats to financial stability.

**9**

(1) The [court of directors of the Bank] may, with the consent of the Chancellor of the Exchequer, remove a member appointed under section 9B(1)(d) or (e) (“M”) if it is satisfied—

- (a) that M has been absent from 3 or more meetings of the Financial Policy Committee without the Committee's consent,
- (b) that M has become bankrupt, that a debt relief order (under Part 7A of the Insolvency Act 1986) has been made in respect of M, that M's estate has been sequestrated or that M has made an arrangement with or granted a trust deed for M's creditors, or

- (c) that M is unable or unfit to discharge M's functions as a member.
- (2) The [court of directors] may, with the consent of the Chancellor of the Exchequer, also remove a member appointed under section 9B(1)(e) ("M") if it is satisfied that in all the circumstances M's financial or other interests are such as substantially to affect the functions as member which it would be proper for M to discharge.

### *Meetings*

## **10**

- (1) The Committee shall meet at least [3 times] in each calendar year.
- (2) The Governor of the Bank (or in the Governor's absence the Bank's Deputy Governor for financial stability) may summon a meeting at any time on giving such notice as the person giving the notice thinks the circumstances require.

### *Proceedings*

## **11**

- (1) At a meeting of the Committee, the proceedings are to be regulated as follows.
- (2) The quorum is to be 6 (excluding the Treasury's representative) and of the 6—
- (a) one must be the Governor of the Bank or the Bank's Deputy Governor for financial stability,
  - (b) unless both those mentioned in paragraph (a) are present, one must be [one] of the other Deputy Governors of the Bank, and
  - (c) one must be a member appointed under section 9B(1)(e).
- (3) The chair is to be taken by the Governor of the Bank or, if the Governor is not present, by the Bank's Deputy Governor for financial stability.
- (4) The person chairing the meeting must seek to secure that decisions of the Committee are reached by consensus wherever possible.
- (5) Where that person forms the opinion that consensus cannot be reached, a decision is to be taken by a vote of all those members present at the meeting.
- (6) In the event of a tie, the person chairing the meeting is to have a second casting vote.
- (7) At a meeting of the Committee—
- (a) the Treasury's representative may not vote, and
  - (b) any view expressed by the Treasury's representative is to be disregarded in determining under sub-paragraph (4) or (5) whether there is a consensus.

(8) . . .

## 12

The Committee may, in relation to sub-paragraph (2), (3), (4) or (5) of paragraph 11, determine circumstances in which a member who is not present at, but is in communication with, a meeting is to be treated for the purposes of that sub-paragraph as present at it.

## 13

The Committee may invite other persons to attend, or to attend and speak at, any meeting of the Committee.

## 14

[(1)] If a member of the Committee (“M”) has any direct or indirect interest (including any reasonably likely future interest) in any dealing or business which falls to be considered by the Committee—

(a) M must disclose that interest to the Committee when it considers the dealing or business, and

(b) the Committee must decide whether M is to be permitted to participate in any proceedings of the Committee relating to any question arising from its consideration of the dealing or business, and if so to what extent and subject to what conditions (if any).]

[(2)] The Bank must issue and maintain a code of practice describing how members of the Committee and the Committee are to comply with sub-paragraph (1).

(3) The Bank may at any time revise or replace the code.

(4) Before issuing, revising or replacing the code, the Bank must consult the Treasury.

(5) The Bank must publish the current version of the code in whatever manner it sees fit.

(6) The Committee must comply with the code when taking decisions under sub-paragraph (1)(b).]

### *[Decisions otherwise than at meetings]*

## 15

(1) The Committee may take a decision on a matter without a meeting if—

(a) a majority of eligible members indicate in writing their agreement to the decision,

(b) the eligible members who indicate in writing their agreement to the decision would have constituted a quorum at a meeting of the Committee, and

- (c) any other requirements determined by the Committee are met.
- (2) “Eligible members” are members of the Committee who would have been entitled to vote on the matter if the matter had been proposed for decision at a meeting of the Committee.

***Power to determine own procedure***

**16**

Subject to paragraphs 11, 14 and 15, the Committee is to determine its own procedure.]

**SCHEDULE 3 Monetary Policy Committee**

**Section 13**

***Terms of office of appointed members***

**1**

Appointment as a member of the Committee under section 13(2)(b) or (c) shall be for a period of 3 years, [but this is subject to paragraph 2B].

**2**

...

**[2A**

A person may not be appointed as a member of the Committee under section 13(2)(c) more than twice.]

**[2B**

- (1) If it appears to the Chancellor of the Exchequer that in the circumstances it is desirable to do so, the Chancellor may, before the end of the 3 years for which a person is appointed as a member of the Committee under section 13(2)(c), extend the person's term of office on one occasion for a specified period of not more than 6 months.
- (2) The term being extended may be the person's first or second term.
- (3) If a person whose first term of office is extended is subsequently re-appointed under section 13(2)(c)—
- (a) the length of the second term is to be reduced by a period equal to the extension of the first term, but
  - (b) the second term may itself subsequently be extended under sub-paragraph (1).]

**3**

[(1)] A person appointed under section 13(2)(b) or (c) may resign his office by written notice to the Bank.

[(2)] Where the notice relates to a person appointed under section 13(2)(c), the Bank must give a copy of the notice to the Treasury.]

**4**

(1) . . .

[(2)] The terms and conditions on which a person holds office as a member of the Committee appointed under section 13(2)(c) are to be such as the [court of directors of the Bank] may determine.]

(3) . . .

***Qualification for appointment*****5**

A person is disqualified for appointment under section 13(2)(b) or (c) if—

- (a) he is a Minister of the Crown, or a person serving in a government department in employment in respect of which remuneration is payable out of money provided by Parliament, or
- (b) he is a member of the court of directors of the Bank.

**[5A**

The following persons are disqualified for appointment under section 13(2)(c)—

- (a) a member of the Financial Policy Committee of the Bank appointed under section 9B(1)(e);
- (b) a member of the Prudential Regulation Committee of the Bank appointed under section 30A(2)(g).]

**6**

The fact that a person has held office under section 13(2)(b) or (c) does not disqualify him for further appointment to such office [(subject to paragraph 2A)].

***Removal of appointed members*****7**

A person appointed under section 13(2)(b) or (c) shall vacate office if he becomes a person to whom paragraph 5(a) or (b) applies.

**8**

A person appointed under section 13(2)(b) shall vacate office if he ceases to [carry out monetary policy analysis] within the Bank . . .

**9**

(1) The [court of directors of the Bank] may, with the consent of the Chancellor of the Exchequer, remove a member appointed under section 13(2)(b) or (c) if it is satisfied—

(a) that he has been absent from [3 or more meetings of the Monetary Policy Committee] without [that Committee's consent],

(b) that he has become bankrupt[, that a debt relief order (under Part 7A of the Insolvency Act 1986) has been made in respect of him], that his estate has been sequestrated or that he has made an arrangement with or granted a trust deed for his creditors, or

(c) that he is unable or unfit to discharge his functions as a member.

[(1A) The court of directors may, with the consent of the Chancellor of the Exchequer, also remove a member appointed under section 13(2)(c) if it is satisfied that in all the circumstances his financial or other interests are such as substantially to affect the functions as member which it would be proper for him to discharge.]

(2) . . .

*Meetings***10**

(1) The Committee shall meet at least [8 times in each calendar year].

[(1A) The Committee shall meet at least once in any 10 week period.]

(2) The Governor of the Bank (or in his absence the Deputy Governor of the Bank . . . for monetary policy) may summon a meeting at any time on giving such notice as in his judgment the circumstances may require.

*Proceedings***11**

(1) At a meeting of the Committee, the proceedings shall be regulated as follows.

(2) The quorum shall be 6, of [whom—

(a) one must be the Governor of the Bank or the Deputy Governor for monetary policy,

- (b) unless both those mentioned in paragraph (a) are present, one must be either the Deputy Governor for financial stability or the Deputy Governor for markets and banking].
- (3) The chair shall be taken by the Governor of the Bank or, if he is not present, the Deputy Governor of the Bank . . . for monetary policy.
- (4) Decisions shall be taken by a vote of all those members present at the meeting.
- (5) In the event of a tie, the chairman shall have a second casting vote.
- (6) Subject to sub-paragraphs (2) to (5) [and paragraph 13B], the Committee shall determine its own procedure.

**12**

The Committee may, in relation to sub-paragraph (2), (3) or (4) of paragraph 11, determine circumstances in which a member who is not present at, but is in communication with, a meeting, is to be treated for the purposes of that sub-paragraph as present at it.

**13**

A representative of the Treasury may attend, and speak at, any meeting of the Committee.

**[13A**

The Committee may invite other persons to attend, or to attend and speak at, any meeting of the Committee.]

**[13B**

- (1) If a member of the Committee (“M”) has any direct or indirect interest (including any reasonably likely future interest) in any dealing or business which falls to be considered by the Committee—
  - (a) M must disclose that interest to the Committee when it considers the dealing or business, and
  - (b) the Committee must decide whether M is to be permitted to participate in any proceedings of the Committee relating to any question arising from its consideration of the dealing or business, and if so to what extent and subject to what conditions (if any).
- (2) The Bank must issue and maintain a code of practice describing how members of the Committee and the Committee are to comply with sub-paragraph (1).
- (3) The Bank may at any time revise or replace the code.
- (4) Before issuing, revising or replacing the code, the Bank must consult the Treasury.

- (5) The Bank must publish the current version of the code in whatever manner it sees fit.
- (6) The Committee must comply with the code when taking decisions under sub-paragraph (1)(b).]

***Report to court of directors of the Bank***

**14**

The Committee shall[, at least 8 times in each calendar year, submit a] report on its activities to the court of directors of the Bank.

***Parliamentary disqualification***

**15**

In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), there is inserted at the appropriate place—

“Member of the Monetary Policy Committee of the Bank of England appointed under section 13(2)(b) or (c) of the Bank of England Act 1998.”;

and a corresponding amendment is made in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

...

**[SCHEDULE 6A Prudential Regulation Committee]**

***[Interpretation***

**1**

In this Schedule—

“chief executive for prudential regulation” means the Deputy Governor for prudential regulation, acting in his or her capacity as a member of the Committee or by virtue of a delegation under paragraph 17;

“the Committee” means the Prudential Regulation Committee;

“prudential regulation strategy” means the strategy determined by the Prudential Regulation Authority under section 2E of the Financial Services and Markets Act 2000.

***Appointment of members by Chancellor***

**2**

Before appointing a person as a member of the Committee under section 30A(2)(g), the Chancellor of the Exchequer must—

- (a) be satisfied that the person has knowledge or experience which is likely to be relevant to the Committee's functions, and
- (b) consider whether the person has any financial or other interests that could substantially affect the functions as member that it would be proper for the person to discharge.

### *Term of office of appointed members*

#### **3**

- (1) Appointment as a member of the Committee under section 30A(2)(f) or (g) is to be for a period of 3 years, but this is subject to sub-paragraph (2) and to paragraph 5.
- (2) Initially some appointments may be for shorter and different periods so as to secure that appointments expire at different times.

#### **4**

- (1) A person may not be appointed as a member of the Committee under section 30A(2)(g) more than twice.
- (2) For this purpose an appointment which by virtue of paragraph 3(2) is for a period of less than 3 years is to be disregarded.

#### **5**

- (1) If it appears to the Chancellor of the Exchequer that in the circumstances it is desirable to do so, the Chancellor may, before the end of the term for which a person is appointed as a member of the Committee under section 30A(2)(g), extend the person's term of office on one occasion for a specified period of not more than 6 months.
- (2) The term being extended may be the person's first or second term or, in a case where paragraph 4(2) allows a third term, the person's third term.
- (3) If a person whose first term of office is extended is subsequently re-appointed under section 30A(2)(g)—
  - (a) the length of the second term is to be reduced by a period equal to the extension of the first term, but
  - (b) the second term may itself be extended under sub-paragraph (1).
- (4) In a case where a person's second term of office is extended and paragraph 4(2) allows a third term, sub-paragraph (3) is to be read as if the references to first and second terms were references to second and third terms respectively.

**6**

- (1) A person appointed under section 30A(2)(f) or (g) may resign the office by written notice to the Bank.
- (2) Where the notice relates to a person appointed under section 30A(2)(g) the Bank must give a copy of the notice to the Treasury.

***Terms and conditions of appointment*****7**

- (1) The terms on which a person is appointed as a member of the Committee under section 30A(2)(g) must be such as—
  - (a) to secure that the member is not subject to direction by the Bank or the Treasury,
  - (b) to require the member not to act in accordance with the directions of any other person, and
  - (c) to prohibit the member from acquiring any financial or other interests that have a material effect on the extent of the functions as member that it would be proper for the member to discharge.
- (2) The terms and conditions on which a person holds office as a member of the Committee appointed under section 30A(2)(g) are to be determined by the court of directors.

***Qualification for appointment*****8**

- (1) The following persons are disqualified for appointment under section 30A(2)(f) or (g)—
  - (a) a minister of the Crown;
  - (b) a person serving in a government department in employment in respect of which remuneration is paid out of money provided by Parliament.
- (2) The following persons are disqualified for appointment under section 30A(2)(g)—
  - (a) a member of the Financial Policy Committee of the Bank appointed under section 9B(1)(e);
  - (b) a member of the Monetary Policy Committee of the Bank appointed under section 13(2)(c).

### ***Removal of appointed members***

#### **9**

(1) A person appointed under section 30A(2)(f) or (g) vacates office on becoming a person to whom paragraph 8(1) applies.

(2) The court of directors of the Bank may, with the consent of the Chancellor of the Exchequer, remove a member appointed under section 30A(2)(f) or (g) (“M”) if it is satisfied—

(a) that M has been absent from 3 or more meetings of the Prudential Regulation Committee without the Committee's consent,

(b) that M has become bankrupt, that a debt relief order (under Part 7A of the Insolvency Act 1986) has been made in respect of M, that M's estate has been sequestered or that M has made an arrangement with or granted a trust deed for M's creditors, or

(c) that M is unable or unfit to discharge M's functions as a member.

(3) The court of directors may, with the consent of the Chancellor of the Exchequer, also remove a member appointed under section 30A(2)(g) (“M”) if it is satisfied that in all the circumstances M's financial or other interests are such as substantially to affect the functions as member which it would be proper for M to discharge.

### ***Decision making***

#### **10**

(1) Decisions of the Committee must be taken either—

(a) at a meeting of the Committee in accordance with paragraphs 11 to 15, or

(b) in writing in accordance with paragraph 16.

(2) Subject to paragraphs 11 to 16, the Committee is to determine its own procedure.

### ***Meetings***

#### **11**

The Governor of the Bank or any Deputy Governor of the Bank who is a member of the Committee may summon a meeting at any time by giving such notice as the person giving the notice thinks the circumstances require.

#### **12**

(1) At a meeting of the Committee, the proceedings are to be regulated as follows.

(2) The quorum is to be determined by the Committee, but it must be not less than 3 and of those 3—

- (a) one must be the Governor of the Bank, the Bank's Deputy Governor for financial stability or the Bank's Deputy Governor for markets and banking,
- (b) unless both the Governor and the Bank's Deputy Governor for financial stability are present, one must be the Bank's Deputy Governor for prudential regulation, and
- (c) one must be a member appointed under section 30A(2)(g).

(3) The chair is to be taken by the Governor of the Bank or, if the Governor is not present, by the Deputy Governor for financial stability or the Deputy Governor for markets and banking.

(4) The person chairing the meeting must seek to ensure that decisions of the Committee are reached by consensus wherever possible.

(5) Where that person forms the opinion that consensus cannot be reached, a decision is to be taken by a vote of all those members present at the meeting (subject to paragraphs 13 and 14).

(6) In the event of a tie, the person chairing the meeting is to have a second casting vote.

### **13**

The chief executive of the Financial Conduct Authority must not take part in any discussion by or decision of the Committee which relates to—

- (a) the exercise of any functions of the Prudential Regulation Authority in relation to a particular person, or
- (b) a decision not to exercise those functions.

### **14**

(1) If a member of the Committee (“M”) has any direct or indirect interest (including any reasonably likely future interest) in any dealing or business which falls to be considered by the Committee—

- (a) M must disclose that interest to the Committee when it considers the dealing or business, and
- (b) the Committee must decide whether M is to be permitted to participate in any proceedings of the Committee relating to any question arising from its consideration of the dealing or business, and if so to what extent and subject to what conditions (if any).

(2) The Bank must issue and maintain a code of practice describing how members of the Committee and the Committee are to comply with sub-paragraph (1).

- (3) The Bank may at any time revise or replace the code.
- (4) Before issuing, revising or replacing the code, the Bank must consult the Treasury.
- (5) The Bank must publish the current version of the code in whatever manner it sees fit.
- (6) The Committee must comply with the code when taking decisions under sub-paragraph (1)(b).

## 15

- (1) The Committee may determine circumstances in which a member who is not present at, but is in communication with, a meeting is to be treated as present at it for the purposes of paragraph 12.
- (2) The Committee may invite other persons to attend, or to attend and speak at, any meeting of the Committee.

### *Decisions otherwise than at meetings*

## 16

- (1) The Committee may take a decision on a matter without a meeting if—
  - (a) a majority of eligible members indicate in writing their agreement to the decision,
  - (b) the eligible members who indicate in writing their agreement to the decision would have constituted a quorum at a meeting of the Committee, and
  - (c) any other requirements determined by the Committee are met.
- (2) “Eligible members” are members of the Committee who would have been entitled to vote on the matter if the matter had been proposed for decision at a meeting of the Committee.

### *Delegation of functions*

## 17

- (1) The Committee may delegate such of its functions as it thinks fit to—
  - (a) a member of the Committee,
  - (b) a sub-committee of the Committee consisting of—
    - (i) members of the Committee, or
    - (ii) one or more members of the Committee and one or more officers, employees or agents of the Bank,

- (c) an officer, employee or agent of the Bank, or
- (d) a committee consisting of officers, employees or agents of the Bank.

This is subject to sub-paragraphs (2) and (9).

(2) The Committee must delegate to the chief executive for prudential regulation the following functions—

- (a) preparing for consideration by the Committee drafts of a prudential regulation strategy and any proposed revisions to that strategy;
- (b) preparing for consideration by the Committee drafts of the annual budget required by paragraph 18 and any proposed variations of that budget;
- (c) the day to day management of the Bank's functions as the Prudential Regulation Authority;
- (d) the day to day implementation of the prudential regulation strategy.

This is subject to sub-paragraph (9).

(3) A delegation under sub-paragraph (2)—

- (a) must identify any decisions (within sub-paragraph (9) or otherwise) that are not included in the delegation;
- (b) may be on such terms and subject to such conditions as the Committee thinks fit.

(4) Those terms and conditions—

- (a) may include provision about the manner of the exercise of the delegated functions;
- (b) may be revised by the Committee from time to time.

(5) Sub-paragraph (2) does not apply in the event of a vacancy in the office of Deputy Governor for prudential regulation.

(6) The Bank must publish a statement setting out—

- (a) the functions which the Committee has delegated to the chief executive for prudential regulation,
- (b) the terms and conditions on which each delegation is made, and
- (c) any decisions (within sub-paragraph (9) or otherwise) that are not included in the delegations.

- (7) If there is a material change to any of those matters, the Bank must publish a revised statement.
- (8) The requirement to delegate the functions mentioned in sub-paragraph (2) to the chief executive for prudential regulation does not prevent further delegation of those functions by the chief executive.
- (9) The Committee may not delegate the following functions—
- (a) reporting to the Chancellor of the Exchequer under paragraph 19;
  - (b) making rules under the Financial Services and Markets Act 2000;
  - (c) determining, reviewing and revising the prudential regulation strategy under section 2E of that Act;
  - (d) giving and reviewing guidance under section 2I of that Act;
  - (e) giving and revoking directions under section 3I, 3J, 3M, 316 or 318 of that Act;
  - (f) issuing statements under section 63ZD, 63C, 69, 142V, 192H, 192N, 210 or 345D of that Act;
  - (g) issuing statements under section 80 of the Financial Services Act 2012.

### *Prudential regulation budget*

## **18**

- (1) The Committee must, with the approval of the court of directors, for each of the Bank's financial years adopt an annual budget for the Bank's functions as the Prudential Regulation Authority.
- (2) The budget must be adopted before the start of the financial year to which it relates.
- (3) The Committee may, with the approval of the court of directors, vary the budget for a financial year at any time after its adoption.
- (4) The Bank must publish each budget, and each variation of a budget, in whatever way it thinks appropriate.

### *Annual reports*

## **19**

At least once a year the Committee must make a report to the Chancellor of the Exchequer on—

- (a) the adequacy of the resources allocated, in the period to which the report relates, to the Bank's functions as the Prudential Regulation Authority, and

- (b) the extent to which the exercise of the Bank's functions as the Prudential Regulation Authority is independent of the exercise of its other functions.]

## **SCHEDULE 7 Restriction on Disclosure of Information**

### ***Restricted information***

#### **1**

(1) Subject to sub-paragraph (2), information is restricted information for the purposes of this paragraph if—

(a) it is obtained by the Bank by virtue of the power conferred by section 17(1) or paragraph 9 of Schedule 2 (whether or not it was obtained pursuant to a notice under that provision), and

(b) it relates to the business or other affairs of any person.

(2) Information is not restricted information for the purposes of this paragraph if—

(a) it has been made available to the public from other sources, or

(b) it is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

(3) Except as permitted by the following provisions of this Schedule, restricted information shall not be disclosed by—

(a) the Bank or any officer or [employee] of the Bank, or

(b) any person obtaining the information directly or indirectly from the Bank,

without the consent of the person from whom the Bank obtained the information and, if different, the person to whom the information relates.

(4) Any person who discloses information in contravention of this paragraph shall be guilty of an offence and liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both;

(b) on summary conviction, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the statutory maximum, or to both.

***Disclosure for the purposes of the Bank's functions***

**2**

(1) Paragraph 1 does not preclude the disclosure of information in any case in which disclosure is for the purpose of enabling or assisting the Bank to discharge—

- (a) its functions as a monetary authority,
- (b) its functions as a supervisor of systems for the transfer of funds between credit institutions and their customers, . . .
- (c) its functions under Schedule 2[, or
- (d) its functions as the Prudential Regulation Authority].

[(2) “Credit institution” means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account.]

***Disclosure by the Bank to other authorities***

**3**

(1) Paragraph 1 does not preclude the disclosure by the Bank of information to any authority specified in the first column of the following Table if the Bank considers that the disclosure would enable or assist that authority to discharge any of the functions specified in relation to it in the second column of that Table.

TABLE

[The Treasury.	Functions under the Financial Services and Markets Act 2000.
The Secretary of State.	Functions under the Financial Services and Markets Act 2000.
An inspector appointed under Part 14 of the Companies Act 1985 . . . .	Functions under that Part.
A person authorised to exercise powers under section 447 of the Companies Act 1985 . . . or section 84 of the Companies Act 1989.	Functions under that section . . . .
A person appointed under—	Functions in relation to that investigation.

- (a) section 167 of the Financial Services and Markets Act 2000,
- (b) subsection (3) or (5) of section 168 of that Act, or
- (c) section 284 of that Act,
- to conduct an investigation.

The [Financial Conduct Authority . . . ]. Functions under the legislation relating to friendly societies, the Building Societies Act 1986, Part 7 of the Companies Act 1989 or and the Financial Services Markets Act 2000.

...

...

[The Chancellor of the Exchequer (or any person to whom any functions of the Chancellor of the Exchequer under the Statistics of Trade Act 1947 are delegated).] Functions under the Statistics of Trade Act 1947.

[The Pensions Regulator Functions conferred by or by virtue of—

(a) the Pension Schemes Act 1993,

(b) the Pensions Act 1995,

(c) the Welfare Reform and Pensions Act 1999,

(d) the Pensions Act 2004, or

(e) any enactment in force in Northern Ireland corresponding to an enactment mentioned in paragraphs (a) to (d) above.]

[The Payment Systems Regulator established under section 40 of the Financial Services (Banking Reform) Act 2013 Functions conferred by, or by virtue of, that Act, the Payment Card Interchange Fee Regulations 2015 and the Payment Services Regulations 2017.]]

- (2) The Treasury may by order amend the Table in sub-paragraph (1) by—
- (a) adding any public or other authority and specifying functions in relation to it,
- (b) removing any authority for the time being specified in the Table, or

(c) altering the functions for the time being specified in the Table in relation to any authority.

(3) The Treasury may by order restrict the circumstances in which, or impose conditions subject to which, disclosure is permitted in the case of any authority for the time being specified in the Table.

(4) Before making an order under this paragraph, the Treasury shall consult the Bank.

#### *Onward disclosure*

### **4**

(1) Paragraph 1 does not preclude the disclosure by any authority specified in the first column of the Table in paragraph 3(1) of information obtained by it by virtue of that provision if it makes the disclosure—

(a) with the consent of the Bank, and

(b) for the purpose of enabling or assisting it to discharge any functions specified in relation to it in the second column of that Table.

(2) Before deciding whether to give its consent to disclosure under this paragraph, the Bank shall take account of such representations as the authority proposing to make the disclosure may make about the desirability of or necessity for the disclosure.

#### *Other permitted disclosures*

### **5**

Paragraph 1 does not preclude the disclosure of information—

(a) with a view to the institution of, or otherwise for the purposes of, any proceedings in connection with a payment due under Schedule 2 (payment in lieu of cash ratio deposit),

(b) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Act or otherwise, or

(c) in pursuance of any [EU] obligation.

## **FINANCIAL SERVICES AND MARKETS ACT 2000**

An Act to make provision about the regulation of financial services and markets; to provide for the transfer of certain statutory functions relating to building societies, friendly societies, industrial and provident societies and certain other mutual societies; and for connected purposes.

### **PART 1A**

#### **THE REGULATORS**

...

#### **[CHAPTER 2**

#### **THE PRUDENTIAL REGULATION AUTHORITY**

##### *The Prudential Regulation Authority*

#### **[2A The Prudential Regulation Authority]**

- (1) The "Prudential Regulation Authority" is the Bank of England.
- (2) The Bank's functions as the Prudential Regulation Authority--
  - (a) are to be exercised by the Bank acting through its Prudential Regulation Committee (see Part 3A of the Bank of England Act 1998), and
  - (b) are not exercisable by the Bank in any other way.
- (3) References in this Act or any other enactment to the Prudential Regulation Authority do not include the Bank of England acting otherwise than in its capacity as the Prudential Regulation Authority.
- (4) References in this Act to the Bank of England do not (unless otherwise provided) include the Bank acting in its capacity as the Prudential Regulation Authority.
- (5) Subsections (3) and (4) do not apply to this section.
- (6) Subsection (4) does not apply for the interpretation of references to the court of directors of the Bank of England, or to a Deputy Governor or committee of the Bank.
- (7) The Prudential Regulation Authority is referred to in this Act as the PRA.]

**[2AB Functions of the PRA]**

- [(1) The PRA is to have the functions conferred on it by or under this Act.
- (2) Schedule 1ZB makes provision about functions of the PRA.
- (3) References in this Act or any other enactment to functions conferred on the PRA by or under this Act include references to functions conferred on the PRA by or under--
- (a) the Insolvency Act 1986,
  - (b) the Banking Act 2009,
  - (c) the Financial Services Act 2012, or
  - (d) a qualifying EU provision that is specified, or of a description specified, for the purposes of this subsection by the Treasury by order.]

***The PRA's general duties*****[2B The PRA's general objective]**

- [(1) In discharging its general functions the PRA must, so far as is reasonably possible, act in a way which advances its general objective.
- (2) The PRA's general objective is: promoting the safety and soundness of PRA-authorized persons.
- (3) That objective is to be advanced primarily by--
- (a) seeking to ensure that the business of PRA-authorized persons is carried on in a way which avoids any adverse effect on the stability of the UK financial system, *and*
  - (b) seeking to minimise the adverse effect that the failure of a PRA-authorized person could be expected to have on the stability of the UK financial system[, and
  - (c) discharging its general functions in relation to the matters mentioned in subsection (4A) in a way that seeks to--<sup>3</sup>
    - (i) ensure that the business of ring-fenced bodies is carried on in a way that avoids any adverse effect on the continuity of the provision in the United Kingdom of core services,

---

<sup>3</sup> Underline indicates that the provision is prospective, and therefore not yet in force.

(ii) ensure that the business of ring-fenced bodies is protected from risks (arising in the United Kingdom or elsewhere) that could adversely affect the continuity of the provision in the United Kingdom of core services, and

(iii) minimise the risk that the failure of a ring-fenced body or of a member of a ring-fenced body's group could affect the continuity of the provision in the United Kingdom of core services].

(4) The adverse effects mentioned in *subsection (3)* [subsection (3)(a) and (b)] may, in particular, result from the disruption of the continuity of financial services.

[(4A) The matters referred to in subsection (3)(c) are--

(a) Part 9B (ring-fencing);

(b) ring-fenced bodies (see section 142A);

(c) any body corporate incorporated in the United Kingdom that has a ring-fenced body as a member of its group;

(d) applications under Part 4A which, if granted, would result, or would be capable of resulting, in a person becoming a ring-fenced body.]

(5) In this Act "PRA-authorized person" means an authorised person who has permission--

(a) given under Part 4A, or

(b) resulting from any other provision of this Act,

to carry on regulated activities that consist of or include one or more PRA-regulated activities (see section 22A).

(6) Subsection (1) is subject to sections 2C and 2D.]

## **[2C Insurance objective]**

[(1) In discharging its general functions so far as relating to a PRA-regulated activity relating to the effecting or carrying out of contracts of insurance or PRA-authorized persons carrying on that activity, the PRA must, so far as is reasonably possible, act in a way--

(a) which is compatible with its general objective and its insurance objective, and

(b) which the PRA considers most appropriate for the purpose of advancing those objectives.

(2) The PRA's insurance objective is: contributing to the securing of an appropriate degree of protection for those who are or may become policyholders.

(3) This section applies only if the effecting or carrying out of contracts of insurance as principal is to any extent a PRA-regulated activity.]

**[2D Power to provide for additional objectives]**

[(1) Subsection (2) applies to an order under section 22A which--

- (a) is made at any time after the coming into force of the first order under that section, and
- (b) contains a statement by the Treasury that, in their opinion, the effect (or one of the effects) of the proposed order is that an activity would become a PRA-regulated activity.

(2) An order to which this subsection applies may specify an additional objective ("the specified objective") in relation to specified activities that become PRA-regulated activities by virtue of the order ("the additional activities").

(3) In discharging its general functions so far as relating to the additional activities or PRA-  
authorised persons carrying on those activities, the PRA must, so far as is reasonably possible, act in  
a way--

- (a) which is compatible with its general objective and the specified objective, and
- (b) which the PRA considers most appropriate for the purpose of advancing those objectives.]

**[[2E Strategy]**

[(1) The PRA must--

- (a) determine its strategy in relation to its objectives, and
- (b) from time to time review, and if necessary revise, the strategy.

(2) Before determining or revising its strategy, the PRA must consult the court of directors of the Bank of England about a draft of the strategy or of the revisions.

(3) The PRA must determine its strategy within 12 months of the coming into force of this section.

- (4) The PRA must carry out and complete a review of its strategy before the end of each relevant period.
- (5) The relevant period is 12 months beginning with the date on which the previous review was completed, except that in the case of the first review the relevant period is the period of 12 months beginning with the date on which the strategy was determined under subsection (3).
- (6) The PRA must publish its strategy.
- (7) If the strategy is revised the PRA must publish the revised strategy.
- (8) Publication under subsection (6) or (7) is to be in such manner as the PRA thinks fit.]

**[2F Interpretation of references to objectives]**

[In this Act, a reference, in relation to any function of the PRA, to the objectives of the PRA is a reference to its general objective but--

- (a) so far as the function is exercisable in relation to the activity of effecting or carrying out contracts of insurance, or PRA-authorized persons carrying on that activity, is a reference to its general objective and its insurance objective;
- (b) so far as the function is exercisable in relation to an activity to which an objective specified by order by virtue of section 2D(2) relates, or PRA-authorized persons carrying on that activity, is a reference to its general objective and the objective specified by the order.]

**[2G Limit on effect of sections 2B to 2D]**

[Nothing in sections 2B to 2D is to be regarded as requiring the PRA to ensure that no PRA-authorized person fails.]

**[2H Secondary competition objective and duty to have regard to regulatory principles]**

[(1) When discharging its general functions in a way that advances its objectives (see section 2F), the PRA must so far as is reasonably possible act in a way which, as a secondary objective, facilitates effective competition in the markets for services provided by PRA-authorized persons in carrying on regulated activities.

(2) In discharging its general functions, the PRA must also have regard to the regulatory principles in section 3B.]

**[2I Guidance about objectives]**

- [(1) The PRA must give, and from time to time review, guidance about how it intends to advance its objectives in discharging its general functions in relation to different categories of PRA-  
authorised person or PRA-regulated activity.
- (2) Before giving or altering any guidance complying with subsection (1), the PRA must consult the FCA.
- (3) The PRA must publish the guidance as for the time being in force.]

**[2J Interpretation of Chapter 2]**

- [(1) For the purposes of this Chapter, the PRA's general functions are--
- (a) its function of making rules under this Act (considered as a whole),
  - (b) its function of preparing and issuing codes under this Act (considered as a whole), and
  - (c) its function of determining the general policy and principles by reference to which it performs particular functions under this Act.
- (2) Except to the extent that an order under section 50 of the Financial Services Act 2012 (orders relating to mutual societies functions) so provides, the PRA's general functions do not include functions that are transferred functions within the meaning of section 52 of that Act.
- (3) For the purposes of this Chapter, the cases in which *a PRA-authorised* [an authorised] person ("P") is to be regarded as failing include those where--
- (a) P enters insolvency,
  - (b) any of the stabilisation options in Part 1 of the Banking Act 2009 is achieved in relation to P, or
  - (c) P falls to be taken for the purposes of the compensation scheme to be unable, or likely to be unable, to satisfy claims against P.

[(3A) For the purposes of this Chapter, the cases in which a person ("P") other than an authorised person is to be regarded as failing include any case where P enters insolvency.]

- (4) In *subsection (3)(a)* [subsections (3)(a) and (3A)] "insolvency" includes--
- (a) bankruptcy,
  - (b) liquidation,

- (c) bank insolvency,
- (d) administration,
- (e) bank administration,
- (f) receivership,
- (g) a composition between P and P's creditors, and
- (h) a scheme of arrangement of P's affairs.]

**[2K Arrangements for supervision of PRA-authorised persons]**

[The PRA must maintain arrangements for supervising PRA-authorised persons.]

**[2L The PRA's general duty to consult]**

[The PRA must make and maintain effective arrangements for consulting PRA-authorised persons or, where appropriate, persons appearing to the PRA to represent the interests of such persons on the extent to which its general policies and practices are consistent with its general duties under sections 2B to 2H.]

**[2M The PRA Practitioner Panel]**

- [(1) Arrangements under section 2L must include the establishment and maintenance of a panel of persons (to be known as "the PRA Practitioner Panel") to represent the interests of practitioners.
- (2) The PRA must appoint one of the members of the PRA Practitioner Panel to be its chair.
- (3) The Treasury's approval is required for the appointment or dismissal of the chair.
- (4) The PRA must appoint to the PRA Practitioner Panel such persons representing PRA-  
authorised persons as it considers appropriate.
- (5) The PRA may appoint to the PRA Practitioner Panel such other persons as it considers  
appropriate.]

**[2N Duty to consider representations]**

[(1) The PRA must consider representations that are made to it in accordance with arrangements made under section 2L.

(2) The PRA must from time to time publish in such manner as it thinks fit responses to the representations.]

[[2O ...]

[[2P ...]

[...]

**[CHAPTER 3**

**FURTHER PROVISIONS RELATING TO FCA AND PRA]**

**[3A Meaning of "regulator"]**

[(1) This section has effect for the interpretation of this Act.

(2) The FCA and the PRA are the "regulators", and references to a regulator are to be read accordingly.

(3) Subsection (2) does not affect--

(a) the meaning of the following expressions--

"home state regulator";

"host state regulator";

"overseas regulator"; . . .

(b) the meaning of "the appropriate regulator" in Part 18 ([recognised investment exchanges, clearing houses and CSDs]); or

(c) the meaning of "regulator" in sections 410A and 410B (fees to meet certain expenses of Treasury)].]

**[3B Regulatory principles to be applied by both regulators]**

[(1) In relation to the regulators, the regulatory principles referred to in section 1B(5)(a) and [2H(2)] are as follows--

- (a) the need to use the resources of each regulator in the most efficient and economic way;
  - (b) the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction;
  - (c) the desirability of sustainable growth in the economy of the United Kingdom in the medium or long term;
  - (d) the general principle that consumers should take responsibility for their decisions;
  - (e) the responsibilities of the senior management of persons subject to requirements imposed by or under this Act, including those affecting consumers, in relation to compliance with those requirements;
  - (f) the desirability where appropriate of each regulator exercising its functions in a way that recognises differences in the nature of, and objectives of, businesses carried on by different persons [(including different kinds of person such as mutual societies and other kinds of business organisation)] subject to requirements imposed by or under this Act;
  - (g) the desirability in appropriate cases of each regulator publishing information relating to persons on whom requirements are imposed by or under this Act, or requiring such persons to publish information, as a means of contributing to the advancement by each regulator of its objectives;
  - (h) the principle that the regulators should exercise their functions as transparently as possible.
- (2) "Consumer" has the meaning given in section 1G.
- (3) "Objectives", in relation to the FCA, means operational objectives.
- [(3A) "Mutual society" has the same meaning as in section 138K.]
- (4) The Treasury may by order amend subsection (2).]

**[3C Duty to follow principles of good governance]**

[In managing its affairs, [the FCA] must have regard to such generally accepted principles of good corporate governance as it is reasonable to regard as applicable to it.]

***Relationship between FCA and PRA***

**[3D Duty of FCA and PRA to ensure co-ordinated exercise of functions]**

(1) The regulators must co-ordinate the exercise of their respective functions conferred by or under this Act with a view to ensuring--

(a) that each regulator consults the other regulator (where not otherwise required to do so) in connection with any proposed exercise of a function in a way that may have a material adverse effect on the advancement by the other regulator of any of its objectives;

(b) that where appropriate each regulator obtains information and advice from the other regulator in connection with the exercise of its functions in relation to matters of common regulatory interest in cases where the other regulator may be expected to have relevant information or relevant expertise;

(c) that where either regulator exercises functions in relation to matters of common regulatory interest, both regulators comply with their respective duties under section 1B(5)(a) or 2H(1)(a), so far as relating to the regulatory principles in section 3B(1)(a) and (b).

(2) The duty in subsection (1) applies only to the extent that compliance with the duty--

(a) is compatible with the advancement by each regulator of any of its objectives, and

(b) does not impose a burden on the regulators that is disproportionate to the benefits of compliance.

(3) A function conferred on either regulator by or under this Act relates to matters of common regulatory interest if--

(a) the other regulator exercises similar or related functions in relation to the same persons,

(b) the other regulator exercises functions which relate to different persons but relate to similar subject-matter, or

(c) its exercise could affect the advancement by the other regulator of any of its objectives.

(4) "Objectives", in relation to the FCA, means operational objectives.]

**[3E Memorandum of understanding]**

- [(1) The regulators must prepare and maintain a memorandum which describes in general terms--
- (a) the role of each regulator in relation to the exercise of functions conferred by or under this Act which relate to matters of common regulatory interest, and
  - (b) how the regulators intend to comply with section 3D in relation to the exercise of such functions.
- (2) The memorandum may in particular contain provisions about how the regulators intend to comply with section 3D in relation to--
- (a) applications for Part 4A permission;
  - (b) the variation of permission;
  - (c) the imposition of requirements;
  - (d) the obtaining and disclosure of information;
  - (e) cases where a PRA-authorized person is a member of a group whose other members include one or more other authorised persons (whether or not PRA-authorized persons);
  - (f) functions under Schedule 3 (EEA passport rights) and Schedule 4 (Treaty rights);
  - (g) the making of rules;
  - (h) directions under section 138A (modification or waiver of rules);
  - (i) powers to appoint competent persons under Part 11 (information gathering and investigations) to conduct investigations on their behalf;
  - (j) functions under Part 12 (control over authorised persons);
  - (k) functions under Part 13 (incoming firms: intervention by regulator);
  - (l) functions under Part 19 (Lloyd's);
  - (m) functions under section 347 (record of authorised persons etc);
  - (n) functions under Part 24 (insolvency);
  - (o) fees payable to either regulator.

- (3) The memorandum must contain provision about the co-ordination by the regulators of--
- (a) the exercise of their functions relating to membership of, and their relations with, the European Supervisory Authorities (namely, the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority),
  - (b) their relations with regulatory bodies outside the United Kingdom, and
  - (c) the exercise of their functions in relation to the compensation scheme.
- (4) The regulators must review the memorandum at least once in each calendar year.
- (5) The regulators must give the Treasury a copy of the memorandum and any revised memorandum.
- (6) The Treasury must lay before Parliament a copy of any document received by them under this section.
- (7) The regulators must ensure that the memorandum as currently in force is published in the way appearing to them to be best calculated to bring it to the attention of the public.
- (8) The memorandum need not relate to any aspect of compliance with section 3D if the regulators consider--
- (a) that publication of information about that aspect would be against the public interest, or
  - (b) that that aspect is a technical or operational matter not affecting the public.
- (9) The reference in subsection (1)(a) to matters of common regulatory interest is to be read in accordance with section 3D(3).]

...

## [SCHEDULE 1ZB

### The Prudential Regulation Authority]

#### *[Interpretation*

## 1

In this Schedule--

...

"functions", in relation to the PRA, means functions conferred on the PRA by or under any provision of this Act (see section [2AB(3)] which affects the meaning of references to such functions).

...

### *Records*

#### **17**

The PRA must maintain satisfactory arrangements for--

- (a) recording decisions made in the exercise of its functions, and
- (b) the safe-keeping of those records which it considers ought to be preserved.

...

### *Annual report*

#### **19**

(1) At least once a year the PRA must make a report to the [Chancellor of the Exchequer] on--

- (a) the discharge of its functions,
- (b) the extent to which, in its opinion, its objectives have been advanced,  
[(ba) how it has complied with section 2H(1),]
- (c) its consideration of the principles in section 3B . . . ,
- (d) how it has complied with section 3D,
- (e) any direction given under section 3I or 3J during the period to which the report relates,
- (f) how it has complied with section 354B(1) so far as relating to co-operation with persons outside the United Kingdom, and
- (g) such other matters as the Treasury may from time to time direct.

[(1A) In the report the PRA must also report in general terms on--

- (a) the extent to which, in its opinion, ring-fenced bodies have complied with the ring-fencing provisions,
  - (b) steps taken by ring-fenced bodies in order to comply with the ring-fencing provisions,
  - (c) steps taken by it to enforce the ring-fencing provisions,
  - (d) the extent to which ring-fenced bodies are carrying on the regulated activity of dealing in investments as principal (whether in the United Kingdom or elsewhere) in circumstances where as a result of an order under section 142D(2) that activity is not an excluded activity,
  - (e) the extent to which ring-fenced bodies are carrying on activities that would be excluded activities by virtue of an order under section 142D(4) but for an exemption or exclusion made by such an order,
  - (f) the extent to which ring-fenced bodies are doing things that they would be prohibited from doing by an order under section 142E but for an exemption made by such an order, and
  - (g) the extent to which ring-fenced bodies appear to it to have acted in accordance with any guidance which it has given to ring-fenced bodies and which relates to the operation of the ring-fencing provisions.
- (1B) In sub-paragraph (1A)--
- (a) references to "ring-fenced bodies" relate only to ring-fenced bodies that are PRA-  
authorised persons, and
  - (b) "the ring-fencing provisions" means ring-fencing rules and the duty imposed as a  
result of section 142G.]
- (2) *Sub-paragraph (1) does not* [Sub-paragraphs (1) and (1A) do not] require the inclusion in the report of any information whose publication would in the opinion of the PRA be against the public interest.
- (3) The report must be accompanied by--
- (a) . . .
  - (b) such other reports or information, prepared by such persons, as the Treasury may from time to time direct.
- (4) The [Chancellor of the Exchequer] must lay before Parliament a copy of each report received by [the Chancellor] under this paragraph.

[(5) The Chancellor may comply with sub-paragraph (4) by laying a document containing a report under this paragraph together with a report under section 4 of the Bank of England Act 1998.]

### *Consultation about annual report*

#### **20**

(1) In relation to each report made under paragraph 19, the PRA must publish at the same time as the report an invitation to members of the public to make representations to the PRA, within the 3 months beginning with the date of publication--

(a) about the report,

(b) about the way in which the PRA has discharged, or failed to discharge, its functions during the period to which the report relates, and

(c) about the extent to which, in their opinion, the PRA's objectives have been advanced [and the PRA has facilitated effective competition in accordance with section 2H and has considered the regulatory principles in section 3B].

(2) The invitation must be published in the way appearing to it to be best calculated to bring the invitation to the attention of the public.

### *Report on consultation*

#### **21**

(1) The PRA must publish a report about its consultation in accordance with paragraph 20.

(2) The report must contain an account, in general terms, of any representations received in pursuance of the invitation published under that paragraph.

(3) The report must be published not later than 4 months after the date on which the report under paragraph 19 was published.

### *Accounts and audit*

#### **22**

(1) *The Treasury may--*

- (a) require the PRA to comply with any provisions of the Companies Act 2006 about accounts and their audit which would not otherwise apply to it, or
  - (b) direct that any provision of that Act about accounts and their audit is to apply to the PRA with such modifications as are specified in the direction, whether or not the provision would otherwise apply to the PRA.
- (2) Compliance with any requirement under sub-paragraph (1)(a) or (b) is enforceable by injunction or, in Scotland, an order for specific performance under section 45 of the Court of Session Act 1988.
- (3) Proceedings under sub-paragraph (2) may be brought only by the Treasury.

## **23**

- (1) The PRA must send a copy of its annual accounts to the Comptroller and Auditor General as soon as is reasonably practicable.
- (2) The Comptroller and Auditor General must--
  - (a) examine, certify and report on accounts received under this paragraph, and
  - (b) send a copy of the certified accounts and the report to the Treasury.
- (3) The Treasury must lay the copy of the certified accounts and the report before Parliament.
- (4) The PRA must send a copy of the certified accounts and the report to the Bank.
- (5) Except as provided by paragraph 22(1), the PRA is exempt from the requirements of Part 16 of the Companies Act 2006 (audit), and its balance sheet must contain a statement to that effect.
- (6) In this paragraph "annual accounts" has the meaning given in section 471 of the Companies Act 2006.]

### ***[Penalties***

## **27**

In determining its policy with respect to the amounts of penalties to be imposed by it under this Act, the PRA must take no account of the expenses which it incurs, or expects to incur, in discharging its functions.

**28**

- (1) The PRA must in respect of each of its financial years pay to the Treasury its penalty receipts after deducting its enforcement costs.
- (2) The PRA's "penalty receipts" in respect of a financial year are any amounts received by it during the year by way of penalties imposed under this Act.
- (3) The PRA's "enforcement costs" in respect of a financial year are the expenses incurred by it during the year in connection with--
  - (a) the exercise, or consideration of the possible exercise, of any of its enforcement powers in particular cases, or
  - (b) the recovery of penalties imposed under this Act.
- (4) For this purpose the PRA's enforcement powers are--
  - (a) its powers under any of the provisions mentioned in section 133(7A),
  - (b) its powers under section 56 (prohibition orders),
  - (c) its powers under Part 25 of this Act (injunctions and restitution),
  - (d) its powers under any other enactment specified by the Treasury by order,
  - (e) its powers in relation to the investigation of relevant offences, and
  - (f) its powers in England and Wales or Northern Ireland in relation to the prosecution of relevant offences.
- (5) "Relevant offences" are--
  - (a) offences under FSMA 2000,
  - (b) offences under subordinate legislation made under that Act, and
  - (c) any other offences specified by the Treasury by order.
- (6) The Treasury may give directions to the PRA as to how the PRA is to comply with its duty under sub-paragraph (1).
- (7) The directions may in particular--
  - (a) specify descriptions of expenditure that are, or are not, to be regarded as incurred in connection with either of the matters mentioned in sub-paragraph (3),

- (b) relate to the calculation and timing of the deduction in respect of the PRA's enforcement costs, and
  - (c) specify the time when any payment is required to be made to the Treasury.
- (8) The directions may also require the PRA to provide the Treasury at specified times with information relating to--
- (a) penalties that the PRA has imposed under FSMA 2000, or
  - (b) the PRA's enforcement costs.
- (9) The Treasury must pay into the Consolidated Fund any sums received by them under this paragraph.

**29**

- (1) The PRA must prepare and operate a scheme ("the financial penalty scheme") for ensuring that the amounts that, as a result of the deduction for which paragraph 28(1) provides, are retained by the PRA in respect of amounts paid to it by way of penalties imposed under this Act are applied for the benefit of PRA-authorised persons.
- (2) The financial penalty scheme may, in particular, make different provision with respect to different classes of PRA-authorised person.
- (3) The financial penalty scheme must ensure that those who have become liable to pay a penalty to the PRA in any financial year of the PRA do not receive any benefit under the scheme in the following financial year.
- (4) Up-to-date details of the financial penalty scheme must be set out in a document ("the scheme details").

**30**

- (1) The scheme details must be published by the PRA in the way appearing to it to be best calculated to bring them to the attention of the public.
- (2) Before making the financial penalty scheme, the PRA must publish a draft of the proposed scheme in the way appearing to the PRA to be best calculated to bring it to the attention of the public.

- (3) The draft must be accompanied by notice that representations about the proposals may be made to the PRA within a specified time.
- (4) Before making the scheme, the PRA must have regard to any representations made to it in accordance with sub-paragraph (3).
- (5) If the PRA makes the proposed scheme, it must publish an account, in general terms, of--
  - (a) the representations made to it in accordance with sub-paragraph (3), and
  - (b) its response to them.
- (6) If the scheme differs from the draft published under sub-paragraph (2) in a way which is, in the opinion of the PRA, significant, the PRA must (in addition to complying with sub-paragraph (5)) publish details of the difference.
- (7) The PRA must, without delay, give the Treasury a copy of any scheme details published by it.
- (8) The PRA may charge a reasonable fee for providing a person with a copy of--
  - (a) a draft published under sub-paragraph (2);
  - (b) scheme details.
- (9) Sub-paragraphs (2) to (6) and (8)(a) also apply to a proposal to alter or replace the financial penalty scheme.

### *Fees*

## **31**

- (1) The PRA may make rules providing for the payment to it of such fees, in connection with the discharge of any of its qualifying functions, as it considers will (taking account of its expected income from fees and charges provided for by any other provision of this Act) enable it--
  - (a) to meet expenses incurred in carrying out its functions or for any incidental purpose,
  - (b) to repay the principal of, and pay any interest on, any relevant borrowing and to meet relevant commencement expenses, and
  - (c) to maintain adequate reserves.
- (2) The "qualifying functions" of the PRA are--

- (a) its functions under or as a result of this Act or any of the other Acts mentioned in section [2AB(3)], and
  - (b) its functions under or as a result of a qualifying EU provision that is specified, or of a description specified, for the purposes of this sub-paragraph by the Treasury by order.
- (3) In sub-paragraph (1)(b)--
- "relevant borrowing" means any money borrowed by the PRA which has been used for the purpose of meeting expenses incurred in relation to its assumption of functions under this Act, and
- "relevant commencement expenses" means expenses incurred by the PRA, the FCA or the Bank--
- (a) in preparation for the exercise of functions by the PRA under this Act, or
  - (b) for the purpose of facilitating the exercise by the PRA of those functions or otherwise in connection with their exercise by it.
- (4) Neither section [2AB(3)(d)] nor the definition of "functions" in paragraph 1 applies for the purposes of sub-paragraph (2).
- (5) For the purposes of sub-paragraph (3) it is irrelevant when the borrowing of the money, the incurring of the expenses or the assumption of functions took place (and, in particular, it is irrelevant if expenses were incurred by the FCA at a time when it was known as the Financial Services Authority).
- (6) In fixing the amount of any fee which is to be payable to the PRA, no account is to be taken of any sums which the PRA receives, or expects to receive, by way of penalties imposed by it under this Act.
- (7) Any fee which is owed to the PRA under any provision made by or under this Act may be recovered as a debt due to the PRA.

*Services for which fees may not be charged*

**32**

The power conferred by paragraph 31 may not be used to require--

- (a) a fee to be paid in respect of the discharge of any of the PRA's functions under paragraph 13, 14, 19 or 20 of Schedule 3, or
- (b) a fee to be paid by any person whose application for approval under section 59 has been granted.]

*[Exemption from liability in damages***33**

(1) None of the following is to be liable in damages for anything done or omitted in the discharge, or purported discharge, of the PRA's functions--

- (a) the PRA;
- (b) any person ("P") who is, or is acting as, a member, officer or member of staff of the PRA;
- (c) any person who could be held vicariously liable for things done or omitted by P, but only in so far as the liability relates to P's conduct.

[(1A) In sub-paragraph (1) the reference to the PRA's functions includes its functions under Part 5 of the Financial Services (Banking Reform) Act 2013 (regulation of payment systems).]

(2) Anything done or omitted by a person mentioned in sub-paragraph (1)(a) or (b) while acting, or purporting to act, as a result of an appointment under any of sections 97, 166 to 169 and 284 is to be taken for the purposes of sub-paragraph (1) to have been done or omitted in the discharge, or as the case may be purported discharge, of the PRA's functions.

(3) Sub-paragraph (1) does not apply--

- (a) if the act or omission is shown to have been in bad faith, or
- (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998.

*Accredited financial investigators***34**

For the purposes of this Act anything done by an accredited financial investigator within the meaning of the Proceeds of Crime Act 2002 who--

- (a) is, or is acting as, an officer of, or member of the staff of, the PRA, or
- (b) is appointed by the PRA under section 167 or 168 to conduct an investigation,

is to be treated as done in the exercise or discharge of a function of the PRA.

***Amounts required by rules to be paid to the PRA***

**35**

Any amount (other than a fee) which is required by rules to be paid to the PRA may be recovered as a debt due to the PRA.]

## BANKING ACT 2009

### 244 Immunity

- (1) The Bank of England has immunity in its capacity as a monetary authority.
- (2) In this section--
  - (a) a reference to the Bank of England is a reference to the Bank and anyone who acts or purports to act as a director, officer, [employee] or agent of the Bank,
  - (b) "immunity" means immunity from liability in damages in respect of action or inaction, and
  - (c) a reference to the Bank's capacity as a monetary authority includes a reference to [the exercise or purported exercise of the Bank's functions under the Financial Services and Markets Act 2000[, of its functions under or in connection with this Act or as a resolution authority for the purposes of the recovery and resolution directive], of its other regulatory functions or of functions undertaken] by the Bank for the purpose of or in connection with--
    - (i) acting as the central bank of the United Kingdom, or
    - (ii) protecting or enhancing the stability of the financial systems of the United Kingdom.

[(2A) The Bank's functions under the Financial Services and Markets Act 2000 are to be taken to include any functions that it may exercise as a result of an appointment under any of sections 97, 166 to 169 and 284 of that Act.]

- (3) The immunity does not extend to action or inaction--
  - (a) in bad faith, or
  - (b) in contravention of section 6(1) of the Human Rights Act 1998.

...

### 246 Information

- (1) The Bank of England may disclose information that it thinks relevant to the financial stability of--
  - (a) individual financial institutions, or
  - (b) one or more aspects of the financial systems of the United Kingdom.
- (2) Information about the business or other affairs of a specified or identifiable person may be disclosed under subsection (1) only to--

- (a) the Treasury;
  - [(b) . . .
  - (ba) the Financial Conduct Authority;]
  - (c) the scheme manager of the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000);
  - [(ca) the Payment Systems Regulator (established under section 40 of the Financial Services (Banking Reform) Act 2013);]
  - (d) an authority in a country or territory outside the United Kingdom which exercises functions similar to those of the Treasury, the Bank of England [the Prudential Regulation Authority or the Financial Conduct Authority] in relation to financial stability;
  - (e) the European Central Bank.
- (3) This section--
- (a) overrides a contractual or other requirement to keep information in confidence, and
  - (b) is without prejudice to any other power to disclose information.

## FINANCIAL SERVICES ACT 2012

...

### PART 4

#### *Collaboration Between Treasury and Bank of England, FCA or PRA*

##### **[57A Duty of Bank to provide information required by Treasury]**

[(1) The Treasury may by notice in writing require the Bank of England to provide it with information specified, or of a description specified, in the notice.

(2) The information must be information which the Treasury consider is material to the Bank's assessment of the implications for public funds of a bank, building society, credit union or investment firm failing.

(3) The information must be provided before the end of such reasonable period as may be specified in the notice.

(4) The Bank's duty to provide information under this section does not apply to information which the Bank does not have in its possession.

(5) For the purposes of this section, the cases in which a bank, building society, credit union or investment firm ("the institution") is to be regarded as failing include those where--

(a) the institution enters insolvency,

(b) any of the stabilisation options in Part 1 of the Banking Act 2009 is achieved in relation to the institution, or

(c) the institution falls to be taken for the purposes of the Financial Services Compensation Scheme (within the meaning given by section 213 of FSMA 2000) to be unable, or likely to be unable, to satisfy claims against the institution.

(6) In subsection (5)(a) "insolvency" includes--

(a) bankruptcy;

(b) liquidation;

(c) bank insolvency;

(d) building society insolvency;

(e) investment bank insolvency;

- (f) administration;
- (g) bank administration;
- (h) building society special administration;
- (i) receivership;
- (j) a composition between the institution and the institution's creditors;
- (k) a scheme of arrangement of the institution's affairs.

(7) For the purposes of this section--

"bank" has the meaning given by section 2 of the Banking Act 2009,

"bank administration" has the same meaning as in that Act (see section 136 of that Act),

"bank insolvency" has the same meaning as in that Act (see section 90 of that Act),

"building society", "building society insolvency" and "building society special administration" have the same meaning as in the Building Societies Act 1986 (see section 119 of that Act),

"credit union" means a credit union as defined by section 31 of the Credit Unions Act 1979 or a credit union as defined by Article 2(2) of the Credit Unions (Northern Ireland) Order 1985,

"investment bank insolvency" means any procedure established by regulations under section 233 of the Banking Act 2009,

"investment firm" has the same meaning as in that Act (see section 258A of that Act),

"public funds" means the Consolidated Fund and any other account or source of money which cannot be drawn or spent other than by, or with the authority of, the Treasury,

and an event has implications for public funds if it would or might involve or lead to a need for the application of public funds.]

**[57B Duty of Bank to inform Treasury about resolution plans]**

[(1) This section applies in relation to--

- (a) a resolution plan which includes one or more options for the exercise of a stabilisation power by the Bank of England in relation to an institution ("the institution"), and

- (b) a group resolution plan which includes one or more options for the exercise of a stabilisation power by the Bank of England in relation to a group entity ("the entity").
- (2) Unless otherwise directed under subsection (5), before adopting the plan the Bank must provide the Treasury with--
- (a) a copy of the plan,
  - (b) the Bank's assessment of the systemic risk of the institution or the entity failing,
  - (c) the Bank's assessment of the implications for public funds--
    - (i) of the exercise by the Bank of a stabilisation power in relation to the institution or the entity in accordance with the option (or each of the options) for the exercise of such a power included in the plan, and
    - (ii) if the plan includes one or more options for the use of an insolvency or administration procedure in relation to the institution or the entity, of the use of such a procedure in accordance with that option (or each of those options), and
  - (d) any analysis considered by the Bank (whether or not prepared by the Bank) to be material in making the assessments mentioned in paragraph (c).
- (3) Unless otherwise directed under subsection (5), the Bank must provide the Treasury with details of--
- (a) any material changes to the plan, before those changes are adopted,
  - (b) any material changes to the Bank's assessments of the matters mentioned in subsection (2)(b) or (c), and
  - (c) any further analysis considered by the Bank (whether or not prepared by the Bank) to be material to revising the assessments mentioned in subsection (2)(c).
- (4) Where reasonably practicable the Bank must comply with subsections (2) and (3) before the Bank exercises any of its powers under section 3A of the Banking Act 2009 in relation to the institution or the entity.
- (5) The Treasury may by notice in writing--
- (a) direct the Bank not to provide it under this section with information in relation to institutions or entities specified, or of a description specified, in the notice;
  - (b) revoke a direction given under paragraph (a).
- (6) Where a direction given under subsection (5)(a) is revoked--

(a) the Bank must provide the Treasury with the matters listed in subsection (2)(a) to (d) in relation to the institutions or entities to which the direction related as soon as reasonably practicable after the date of the revocation, and

(b) subsection (3) applies in relation to those institutions or entities,

but this is subject to any further direction under subsection (5)(a).

(7) For the purposes of this section--

"failing" has the same meaning as in section 57A,

"insolvency or administration procedure" means--

- (a) bank insolvency,
- (b) building society insolvency,
- (c) investment bank insolvency,
- (d) bank administration, or
- (e) building society special administration,

(and those terms have the same meaning as in section 57A);

"public funds" has the same meaning as in section 57A,

"systemic risk" means risk to the stability of the financial system in the United Kingdom or in other EEA states,

and action has implications for public funds if it would or might involve or lead to a need for the application of public funds.]

### **58 Duty of Bank to notify Treasury of possible need for public funds**

(1) Where it appears to the Bank of England that there is a material risk of circumstances within any of the following cases arising, the Bank must immediately notify the Treasury.

(2) A notification under subsection (1) or section 59(2) is referred to in this Part as a "public funds notification".

(3) The first case is where the Treasury or the Secretary of State might reasonably be expected to regard it as appropriate to provide financial assistance to or in respect of a financial institution.

(4) The second case is where--

(a) the Treasury, the Bank of England, the PRA, the FCA or the Secretary of State might reasonably be expected to regard it as appropriate to exercise any of their respective powers under Parts 1 to 3 of the Banking Act 2009, and

(b) the Treasury might reasonably be expected to regard it as appropriate to incur expenditure in connection with the exercise of any of those powers (whether by the Treasury, the Bank, the PRA, the FCA or the Secretary of State).

(5) The third case is where the scheme manager of the Financial Services Compensation Scheme might reasonably be expected to request--

(a) a loan from the National Loans Fund under section 223B of FSMA 2000, or

(b) financial assistance from the Treasury,

for the purpose of funding expenses incurred or expected to be incurred under the Financial Services Compensation Scheme.

(6) A public funds notification must give a general indication of the matters giving rise to the notification.

(7) A public funds notification must be given or confirmed in writing.

## **59 Duty of Bank to notify Treasury of changes**

(1) This section applies where a public funds notification has been given.

(2) If the Bank of England is of the opinion that the risk to which the notification relates continues but that there is a substantial change in the matters which gave rise to the notification, the Bank must notify the Treasury.

(3) If the Bank of England is of the opinion that the risk to which the notification relates has ceased, it must notify the Treasury.

(4) Before giving a notification under subsection (3), the Bank must consult the Treasury.

(5) A notification under subsection (3) must be given or confirmed in writing.

**60 Circumstances in which Treasury power of direction exercisable**

- (1) This section makes provision about the circumstances in which the Treasury's power of direction under section 61 is exercisable, subject to the provisions of that section.
- (2) Where a public funds notification has been given, the power of direction is exercisable by reference to the notification unless the notification has been superseded by a notification under section 59(3).
- (3) Where qualifying financial assistance has been provided, the power of direction is exercisable by reference to the provision of the assistance unless it appears to the Treasury that the assistance has been recovered.
- (4) It is immaterial for the purposes of subsection (3)--
  - (a) whether the qualifying financial assistance was provided before or after the commencement of this section, and
  - (b) whether or not a public funds notification had been given in connection with it.
- (5) For the purposes of this Part qualifying financial assistance is provided if, and only if--
  - (a) the Treasury or the Secretary of State provide financial assistance to or in respect of a financial institution,
  - (b) the Treasury incur expenditure in connection with the exercise by the Treasury, the Bank, the PRA, the FCA or the Secretary of State of any of their powers under Parts 1 to 3 of the Banking Act 2009,
  - (c) the Treasury arrange a loan from the National Loans Fund in pursuance of a request by the scheme manager of the Financial Services Compensation Scheme under section 223B of FSMA 2000, or
  - (d) the Treasury provide financial assistance to the scheme manager of that scheme for the purpose of funding expenses incurred or expected to be incurred under it.
- (6) For the purposes of this section the circumstances in which qualifying financial assistance is to be taken to have been recovered include the following--
  - (a) where, in the case of a loan, the principal of the loan has been repaid and all interest due under the terms of the loan has been paid,
  - (b) where, in the case of a guarantee or indemnity, the Treasury or the Secretary of State will not become liable under the guarantee or indemnity,

(c) where, in a case involving the issue or transfer of shares to the Treasury in connection with the provision of qualifying financial assistance, the shares are no longer held by the Treasury.

## **61 Treasury power of direction**

(1) Subsection (2) applies where--

(a) the power of direction is exercisable by virtue of section 60(2) by reference to a public funds notification and the Treasury are satisfied that Condition A is met, or

(b) the power of direction is exercisable by virtue of section 60(3) by reference to the provision of qualifying financial assistance and the Treasury are satisfied that Condition A or Condition B is met.

(2) The Treasury may give a direction to the Bank of England relating to one or more of the following--

(a) the provision by the Bank to one or more financial institutions of financial assistance other than ordinary market assistance offered by the Bank on its usual terms,

(b) the exercise by the Bank of any of the stabilisation powers, as defined by section 1(4) of the Banking Act 2009 [or the making by the Bank of a mandatory reduction instrument within the meaning of section 6B of that Act], or

(c) the exercise by the Bank of its powers under Part 3 of that Act (bank administration).

(3) Condition A is that the giving of the direction is necessary to resolve or reduce a serious threat to the stability of the financial system of the United Kingdom which is connected--

(a) in case within subsection (1)(a), with the matters to which the public funds notification relates;

(b) in a case within subsection (1)(b), with the matters that gave rise to the provision of the qualifying financial assistance.

(4) Condition B is that--

(a) the qualifying financial assistance was provided for the purpose of resolving or reducing a serious threat to the stability of the financial system of the United Kingdom, and

(b) the giving of the direction is necessary to protect the public interest in connection with the provision of that assistance.

- (5) References to the provision of qualifying financial assistance are to be read in accordance with section 60(5).
- (6) This section is subject to section 62.
- (7) Nothing in this section limits the powers conferred by section 4(1) of the Bank of England Act 1946 (Treasury directions to the Bank).

## **62 Directions under section 61: supplementary provisions**

- (1) References in this section to a direction are to a direction under section 61.
- (2) Before giving a direction, the Treasury must consult the Bank of England.
- (3) On being given a direction, the Bank must give the Treasury one or more reports on how it is complying or intends to comply with the direction, and on such other matters relating to the direction as it considers appropriate.
- (4) The Treasury may at any time by notice to the Bank revoke a direction.
- (5) The revocation of a direction does not affect the validity of anything previously done in accordance with it.
- (6) Where the Treasury's power of direction is exercised by virtue of section 60(2) by reference to a public funds notification, the direction remains in force (unless revoked under subsection (4)) even if the public funds notification is subsequently superseded by a notification under section 59(3).
- (7) Where the Treasury's power of direction is exercised by virtue of section 60(3) by reference to the provision of qualifying financial assistance, the direction remains in force (unless revoked under subsection (4)) even if it appears to the Treasury that the qualifying financial assistance has subsequently been recovered.
- (8) Each of the following must be in writing--
  - (a) a direction,
  - (b) a report under subsection (3), and
  - (c) a notice revoking a direction.

### **63 Duty to lay direction etc before Parliament**

- (1) As soon as practicable after giving or revoking a direction under section 61 or receiving a report under section 62(3), the Treasury must lay before Parliament a copy of the direction, notice of revocation or report.
- (2) But subsection (1) does not apply in a case where the Treasury consider that the publication of the direction, notice of revocation or report would be against the public interest.
- (3) Where the Treasury decide that publication of a direction, notice of revocation or report would be against the public interest, they must from time to time review that decision and if they subsequently decide that publication is no longer against the public interest they must comply with subsection (1).

### **64 Duty of Treasury, Bank and PRA to co-ordinate discharge of functions**

- (1) The Treasury (on the one hand) and the Bank of England and the PRA (on the other) must arrange to co-ordinate the discharge of their respective functions so far as they--
  - (a) relate to the stability of the UK financial system, and
  - (b) affect the public interest.
- (2) In complying with subsection (1), the Treasury, the Bank and the PRA must have regard in particular to the importance of co-ordination in circumstances where the Bank has given, or is considering the giving of, a public funds notification.

### **65 Memorandum of understanding: [resolution planning and] crisis management**

- (1) The Treasury (on the one hand) and the Bank of England and the PRA (on the other) must prepare and maintain a memorandum describing in general terms how they intend to comply with section 64 in relation to--
  - (a) the sharing of information by the Bank about any proposals to include in a resolution plan or a group resolution plan an option for the exercise of a stabilisation power by the Bank in relation to an institution or group entity;
  - (b)] the circumstances mentioned in subsection (2) of that section.
- (2) [For the purposes of subsection (1)(b),] the memorandum must, in particular, make provision about--

- (a) what the Treasury and the Bank regard as a material risk for the purposes of section 58(1);
  - (b) steps to be taken when the Bank has given a public funds notification;
  - (c) the respective roles of the Treasury, the Bank and the PRA, in cases where the Bank has given a public funds notification, in relation to the consideration and assessment of, and taking of, steps to resolve or reduce, threats to the stability of the UK financial system;
  - (d) how the Treasury, the Bank and the PRA will co-operate in fulfilling those roles;
  - (e) the use by the Treasury of their power under section 61;
  - (f) matters connected with the Bank's compliance with a direction under that section;
  - (g) the obtaining and sharing of information.
- (3) The memorandum may make provision about such other matters as may be agreed between the Treasury, the Bank and the PRA, which must be matters that--
- (a) relate to the stability of the UK financial system or the regulation of financial services, and
  - (b) affect the public interest.
- (4) The memorandum need not make provision about the relationship between the Bank and the PRA.
- (5) The Treasury, the Bank of England and the PRA may, with the agreement of a body falling within subsection (6), include in the memorandum provisions relating to co-operation between any of them and that body in relation to matters falling within subsection (3)(a) and (b).
- (6) The bodies falling within this subsection are--
- (a) the FCA;
  - (b) the scheme manager of the Financial Services Compensation Scheme;
  - (c) any other body exercising functions that relate to the stability of the UK financial system or the regulation of financial services.
- (7) The Treasury must--
- (a) lay before Parliament a copy of the memorandum and any revised memorandum, and

**66 Memorandum of understanding: international organisations**

(1) The Treasury, the Bank of England, the FCA and the PRA ("the UK authorities") must prepare and maintain a memorandum describing how they intend to co-ordinate the exercise of their relevant functions so far as they relate to membership of, or relations with, the European Supervisory Authorities, EU institutions and other international organisations.

(2) The "European Supervisory Authorities" are the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority.

(3) "Relevant function"--

(a) in relation to the FCA or the PRA, means any of its functions;

(b) in relation to the Bank of England, means any of its functions relating to the stability of the UK financial system or the regulation of financial services;

(c) in relation to the Treasury, means any of their functions relating to the matters mentioned in paragraph (b).

(4) The memorandum is to be made with a view to ensuring--

(a) that, to the extent that it is appropriate to do so, the UK authorities agree consistent objectives in relation to matters of common interest;

(b) that, to the extent that it is appropriate to do so, they exercise their relevant functions in a way that is likely to advance those objectives;

(c) that they exercise their relevant functions in a way that is consistent and effective.

(5) The memorandum must, in particular, make provision--

(a) stating, in relation to each of the UK authorities, those international organisations of which it is a member or with which it has relations and which are concerned with matters that are related to its relevant functions;

(b) for there to be a committee for the purposes of the co-ordination mentioned in subsection (1);

(c) for that committee to include representatives of the UK authorities and to be chaired by a representative of the Treasury;

(d) about the procedures to be followed by the UK authorities in agreeing consistent objectives in relation to matters that materially affect 2 or more of them;

- (e) about how the UK authorities will consult each other about the discharge of their relevant functions relating to international organisations.
- (6) The memorandum need not make provision about co-ordination between the FCA and the PRA in relation to membership of, or relations with, the European Supervisory Authorities (as to which, see section 3E of FSMA 2000).
- (7) The UK authorities may, with the agreement of a body exercising functions relating to the stability of the UK financial system or the regulation of financial services, include in the memorandum provisions relating to co-operation between any of them and that body in relation to membership of, or relations with, the European Supervisory Authorities, EU institutions and other international organisations.
- (8) The Treasury must--
  - (a) lay before Parliament a copy of the memorandum and any revised memorandum, and
  - (b) publish the memorandum as currently in force in such manner as they think fit.

#### **67 Interpretation of Part 4**

- (1) This section has effect for the interpretation of this Part.
- (2) "Public funds notification" is to be read in accordance with section 58(2).
- (3) "Financial assistance" includes giving guarantees or indemnities and any other kind of financial assistance (actual or contingent).
- (4) The Treasury may by order provide that a specified activity or transaction, or class of activity or transaction, is to be or not to be treated as financial assistance for the purposes of this Part; and subsection (3) is subject to this subsection.
- (5) "Qualifying financial assistance" is to be read in accordance with section 60(5).
- [(6) "Group entity" has the same meaning as in the Bank Recovery and Resolution (No 2) Order 2014 (SI 2014/3348).
- (7) "Group resolution plan" means a group resolution plan drawn up by the Bank under Part 5 of that Order.
- (8) "Resolution plan" means a resolution plan drawn up by the Bank under Part 5 of that Order.
- (9) "Stabilisation power" has the same meaning as in section 1(4) of the Banking Act 2009.]

## **MEMORANDUM OF UNDERSTANDING ON RESOLUTION PLANNING AND FINANCIAL CRISIS MANAGEMENT**

**Presented to the Parliament pursuant to section 65(7) of the Financial Services Act 2012**

**October 2017**

1. This memorandum has been prepared and published in line with the provisions of Section 65 of the Financial Services Act 2012, (the Act) which requires HM Treasury ('the Treasury') on the one hand, and the Bank of England, including in its capacity as the Prudential Regulation Authority (PRA), to prepare and maintain a memorandum of understanding on financial crisis management. This memorandum of understanding therefore establishes the framework for coordination of financial crisis management between the Treasury and the Bank of England. Within this memorandum, a reference to the 'Bank' refers to both the Bank of England and the PRA, except where the context otherwise requires or it is explicitly stated otherwise.]

2. The Bank is responsible for protecting and enhancing the stability of the UK financial system. Through the PRA, the Bank will regulate deposit-takers, insurance companies and certain 'investment firms' to promote the stability of the UK financial system and ensure that when individual institutions fail, they do not pose a threat to the stability of the system as a whole. Stability, while important, is only one element of a successful financial sector and economy; and the possibility of failure of individual firms is a vital element of the competitive discipline imposed by efficient markets.

3. When the risk of instability or failure arises, it must be monitored and mitigated so as to minimise the impact on the financial system, and the economy, as a whole. Managing such risks when there is a material likelihood of crystallisation is the process referred to in this memorandum as 'financial crisis management'.

### Responsibilities

4. The key principle of financial crisis management is to make clear who is in charge of what, and when. The Bank and the Treasury have clear and separate responsibilities. The Bank has primary operational responsibility for financial crisis management. The Chancellor and the Treasury have sole responsibility for any decision involving public funds. When the Bank has formally notified the Treasury of a material risk to public funds, and either there is a serious threat to financial stability, or public funds are already committed by the Treasury to resolve or reduce such a serious threat and it would be in the public interest to do so, the Chancellor may use powers to direct the Bank.

5. The Bank has primary operational responsibility for financial crisis management. Its responsibilities in a financial crisis stem from:

- the PRA's monitoring and mitigating of risks to the safety and soundness of individual firms – including through the Proactive Intervention Framework (PIF), which makes clear how and when the PRA will escalate its engagement as risks in relation to a firm increase;
- its oversight of payment systems, settlement systems and clearing houses, which are systemically important to the financial system, including its power to close an interbank payment system.
- offering, as the central bank, liquidity insurance to the financial system on terms that safeguard the Bank's capital, as described in the Bank's published frameworks;
- the provision, when authorised by the Treasury, of Emergency Liquidity Assistance (ELA - defined as support operations outside the Bank's published frameworks) to firms that are at risk but are judged to be solvent;
- the provision, when authorised by the Treasury, of liquidity support via the Resolution Liquidity Framework (RLF) to a firm in respect of which the Bank has exercised its powers under the Special Resolution Regime (SRR) on the firm or its holding company, as set out in Part 1 of the Banking Act 2009 (the 2009 Act);
- the Bank's powers under the SRR, and its responsibilities as resolution authority under the Bank Recovery and Resolution Directive; and
- the Bank's obligation, under Section 58(1) of the 2012 Act, to notify the Treasury of a material risk to public funds arising from a potential crisis.

6. The Chancellor and the Treasury have sole responsibility for any decision on whether and how to use public funds, including:

- authorising any proposal by the Bank to provide ELA to one or more individual firms in a support operation that goes beyond the Bank's published frameworks;
- authorising the use of any stabilisation power which would have implications for public funds, including in respect of a firm to which financial assistance has already been extended by the Treasury;
- authorising liquidity support via the RLF or any other public sector backstop funding mechanism (which for the purposes of this MoU excludes the Bank's published frameworks); and
- the exercise of the Temporary Public Ownership stabilisation option in relation to a bank or a bank holding company in accordance with the relevant provisions of the 2009 Act.

7. The Chancellor and the Treasury are also responsible for:

- keeping Parliament and the public informed of action taken to manage a crisis; and
- ensuring that actions considered or taken are assessed for compliance with the UK's international obligations;

## **Resolution planning**

8. In order to ensure that its powers under the SRR can be applied effectively, the Bank, as the resolution authority for the United Kingdom, is responsible outside of a crisis for developing resolution plans and conducting resolvability assessments for individual firms.

9. Given the Treasury's responsibility for authorising the use of any stabilisation power where it would have implications for public funds and authorising the use of any public sector backstop funding mechanism, it is important that the Treasury has sufficient notice of each resolution plan that anticipates the use of stabilisation powers and the provision of liquidity support via the RLF or the use of any other public sector backstop funding mechanism so that it can assess the scale of the risk to public funds which could be associated with the failure of that firm. This information should put the Treasury in a position to provide its views to the Bank regarding any public funds concerns it has with the resolution plan ahead of it being adopted or updated. The Treasury would consider any request by the Bank for an indemnity on a case by case basis.

10. For this purpose, the Act, as amended by the Bank of England and Financial Services Act 2016 places a duty on the Bank to inform the Treasury about a resolution plan or group resolution plan which includes one or more options for the exercise of a stabilisation power. In this respect, the Bank will provide the Treasury with the following before adopting or revising the relevant resolution plan:

- a copy of the draft resolution plan;
- the Bank's assessment of the systemic risk of the firm failing and the implications for public funds of the draft resolution plan (including the need for potential delivery of indemnified liquidity support via the RLF or the use of any other public sector backstop funding mechanism) as set out in the draft resolvability assessment;
- on a proportionate basis, any analysis considered by the Bank (whether or not prepared by the Bank) to be material to the Bank's assessment of the implications for public funds of the draft resolution plan.

11. In accordance with the Bank Recovery and Resolution Directive, the Bank is required as UK resolution authority to review – and where appropriate – update firms' resolution plans at least annually. In addition, new circumstances or risks may give rise to the need for the Bank to reconsider the previously adopted resolution plan for a firm. As these revisions to the resolution plan could have different, possibly greater, public funds implications, the Act also requires the Bank to provide the Treasury with details of any material changes to the resolution plan, ahead of adopting those changes, and any material changes to the Bank's assessments of the matters referred to above. It will also provide the Treasury with any further analysis considered by the Bank to be material to revising its assessment of the implications for public funds of the resolution plan.

12. Where reasonably practicable, the Bank will comply with these statutory requirements before it exercises any of its powers to direct firms to address impediments to resolvability under section 3A of the 2009 Act.

13. The Treasury may direct the Bank not to provide it with the information referred to above for specified firms if the Treasury deems it appropriate to do so for any reason. Under such circumstances the Bank will not provide the Treasury with this information until the direction is revoked by the Treasury.

14. In general terms, these statutory requirements should provide HMT with the information it needs to consider the public funds implications of the resolution plan for a relevant firm. To ensure the Treasury is in a position to discharge its responsibility to take any decision on whether and how to use public funds, it also has a power under section 57A of the Act to require, on a proportionate basis, the Bank to provide it with information in the Bank's possession which the Treasury considers to be material to the Bank's assessment of the public funds implications of the relevant resolution plan.

15. In providing analysis on a proportionate basis under section 57B(2)(d) of the Act, the Bank will look to provide information or, where appropriate, summaries of information or relevant decisions that will assist the Treasury in understanding the Bank's assessment and in reaching its own assessment of the risks.

16. As is the case in a financial crisis, engagement between the Chancellor and the Governor will be central to institutional coordination on issues related to resolution planning outside of crisis management. In line with the duty in section 64 of the Act on the Bank and Treasury to co-ordinate the discharge of their functions, the Chancellor or the Governor may request a meeting to discuss the public funds risks associated with the potential failure of a firm. Where appropriate, the Treasury junior minister responsible for financial stability, and the Deputy Governors for Financial Stability, Markets and Banking and Prudential Regulation will also attend these meetings. Other arrangements to facilitate coordination may include resolution exercises to simulate the resolution of a financial institution in a crisis, which may be attended by the Chancellor, Governor, relevant Deputy Governors and other officials.

17. Engagement between the Chancellor and Governor will be supported by regular meetings between the Bank's Deputy Governor for Financial Stability and the Treasury's Second Permanent Secretary. In addition, the Bank and the Treasury shall put in place appropriate arrangements at an operational level, including regular and ad hoc meetings to facilitate co-ordination on resolution planning between officials from the Bank and Treasury. Through these arrangements, the Bank will ensure that the Treasury is informed of all firms that are subject to heightened risks, including where a material risk to public funds has not yet crystallised.

**Resolution policy**

18. The Bank performs a critical role in determining the UK's approach to resolution by formulating and implementing policy in the UK and internationally.

19. Resolution policy decisions aim, among other things, to reduce risks to public funds in the longer term. As a result, the Bank and Treasury will work to ensure that risks to public funds are considered as part of policy development.

20. For this purpose, the Bank will provide the Treasury with drafts of any document, statement or other announcement in relation to the Bank's formal resolution policy affecting firms in general which it proposes to issue in its capacity as resolution authority. Save in exceptional circumstances, the Bank will provide such information at least 14 days in advance of the proposed publication date. As a practical matter, this will not include speeches given by Bank staff or informational material on existing policy published by the Bank.

**Notification by the Bank of a risk to public funds**

21. Operational responsibility for mitigating and managing risks to financial stability rests with the Bank. Where the Bank is able to manage a financial crisis without public funds being put at risk, it will have autonomy in exercising its responsibilities, in line with the relevant statutory provisions. The Bank will keep the Treasury informed of such actions and their outcomes in a manner proportionate to the severity of the situation.

22. When the Bank, however, considers there to be a material risk of circumstances arising in which public funds would be at risk, close co-ordination is required to ensure that the Bank and the Treasury are able to fulfil their individual responsibilities effectively. Both the Bank and the Treasury have particular responsibilities to ensure this co-ordination is effective.

23. In addition to its obligations in respect of resolution planning, the Bank has a statutory duty under Section 58(1) of the 2012 Act to notify the Treasury immediately when there is a material risk of circumstances arising in which public funds would be put at risk.

24. The 2012 Act establishes that these circumstances are those in which:

- the Treasury might reasonably be expected to regard it as appropriate to provide financial assistance to or in respect of a financial institution;
- the Treasury or the Bank might reasonably be expected to regard it as appropriate to exercise any of their respective powers under the SRR and the Treasury might reasonably be expected to regard it as appropriate to incur expenditure in connection with the exercise of those powers; or

- the scheme manager of the Financial Services Compensation Scheme might reasonably be expected to request financial assistance from the Treasury (including via the National Loans Fund) for the purpose of that scheme.

25. In addition, where the Bank proposes to make ELA or liquidity support via the RLF available to one or more financial institutions it will notify the Treasury and seek the Treasury's approval.

26. In determining whether a notification of a risk to public funds is needed in respect of an individual firm, the starting point for the assessment will be the published generic risk "stages" identified in the PRA's PIF. However, the PIF stages will not be used as a formulaic test. Notification may be required at earlier or later stages of the PIF, depending on the probability, nature and severity of the risk to public funds. The same will apply to assessment of non firm-specific or systemic risks: the precise notification threshold will depend on a range of factors relating to the nature and probability of the risk to public funds.

27. The assessment will not, however, depend on the amount of public funds at risk. The principle that the Chancellor and the Treasury are responsible for any decision involving public funds, regardless of the amount concerned, is absolute.

28. Notification will be made in sufficient time for the Treasury to make a fully informed decision about the potential use of public funds. This will include sufficient time to allow the Treasury to commission the Bank to develop alternative mitigation options. If in doubt, the Bank will tend towards notification.

29. If the Treasury independently identifies an issue which it believes may result in a threat to financial stability or a risk to public funds, it may ask the Bank to assess whether this issue requires a notification.

30. When the Bank notifies the Treasury under Section 58(1), the Bank will, as soon as possible thereafter and on a timetable agreed with the Treasury, provide:

- an explanation of the risk to public funds;
- identification of the options the Bank is considering to mitigate the risks to stability including, where relevant, resolution options under consideration;
- an assessment of the potential systemic or firm-level impact of each option; and
- identification of specific risks to public funds arising from any action being considered, including inaction.

31. The Bank and the Treasury will agree a suitable frequency for updates, reflecting the severity and immediacy of the risk to public funds given the specific crisis. The Bank will also notify the Treasury when a risk is deemed to have passed.

### Financial crisis management

32. As noted above, where the Bank is able to manage risks to financial stability without public funds being put at risk, it will do so on an autonomous basis. Once a risk to public funds has been notified, the Bank will continue to lead the operational response, working closely with the Treasury to develop options to mitigate the risk.

33. During a potentially fast-moving crisis, it will become especially important to ensure close and effective coordination so as to maintain coherence in the overall crisis management process. At the heart of institutional coordination during a live crisis will be frequent contact between the Chancellor and the Governor. However, the Chancellor and the Governor may agree to establish ad hoc or standing committees at other levels to support this process.

34. The Treasury will provide the Bank with clear information on particular issues of interest or concern to the Treasury which relate to resolving the crisis in the public interest. If requested by the Bank, this will include the Treasury's view on the type and the level of public funding commitments that, consistent with the 2009 Act, it is likely to authorise. This information will be provided in sufficient time to assist the Bank in developing and implementing resolution options. It will not, however, constitute Treasury pre-approval of a specific public fund envelope within which the Bank may operate. Any decision with public funds implications will still require explicit Treasury authorisation. Within this framework, the Bank will be responsible for developing options for managing or resolving the risk to public funds consistent with its statutory responsibilities as the resolution authority. The Bank will provide the Treasury with information needed on the options for managing the situation, including on options commissioned by the Treasury. This will be provided in sufficient time to allow the Treasury to make a fully informed decision about any use of public funds.

35. The Bank will take account of the Treasury's need to use public funds in a way which meets standards of regularity and propriety and provides good value for money.

36. The Chancellor and Treasury Accounting Officer will take responsibility and ultimate control over all decisions involving the use of public funds. The Treasury will take decisions on the use of public funds in a timely manner, to allow the Bank (and any other agencies or authorities involved) to implement the chosen course of action, within the constraints imposed by legislation (including EU legislation).

37. The Treasury's involvement after notification will increase in proportion to the magnitude of the risk to public funds up to the point where, having consulted the Governor, the Chancellor is satisfied that there is a serious threat to financial stability, or that it would be in the public interest to do so, given public funds already committed to resolving the crisis. At this point, the Chancellor will have the ability, if necessary in the public interest, to exercise the power of direction provided for in the Act and set out below.

### The Chancellor's power of direction over the Bank

38. The Bank has primary responsibility for financial stability and operational responsibility for managing financial crises. But consistent with the Treasury's overall responsibilities, the Chancellor may, in some circumstances during a financial crisis, use additional powers to direct the Bank. This is provided for in Section 61 of the Act, which allows the Chancellor to direct the Bank to:

- conduct special support operations for the financial system as whole, in operations going beyond the Bank's published frameworks;
- provide ELA in a support operation going beyond the Bank's published frameworks to one or more firms that are not judged by the Bank to be solvent and viable;
- provide ELA in a support operation going beyond the Bank's published frameworks to one or more firms on terms other than those proposed by the Bank; and
- implement a particular SRR stabilisation option.

39. Where the Chancellor directs the Bank to conduct a support operation, either to the financial system as a whole or to one or more individual firms, the Bank will act as the Treasury's agent. The Bank will set up a Special Purpose Vehicle (SPV), separate from the Bank's balance sheet, to effect the support operation. The Bank and the Vehicle will be indemnified by the Treasury. Where the Treasury has determined that the operation needs to be carried out covertly, the Bank will execute the operation in a way which best ensures that the existence of the operation does not become public.

40. The Treasury will decide whether the Vehicle shall be financed through the issuance of government securities, by a loan from the Bank with share capital provided by the Treasury or via another mechanism. When the Vehicle is financed by a loan from the Bank or would otherwise affect the Bank's balance sheet, the Bank will decide, consistent with its operational independence in monetary policy, whether and how to offset the resulting expansion of central bank reserves.

41. The 2009 Act contains a number of provisions covering the Treasury's role in the SRR where public funds are at risk. The Bank may not exercise a stabilisation power without the Treasury's consent, if the exercise would have implications for public funds. In addition, if the Treasury has provided financial assistance to resolve or reduce a serious threat to financial stability, the Bank may only exercise its stabilisation powers where recommended to do so by the Treasury on the grounds that such an exercise is necessary to protect the public interest.

42. In general terms, these provisions are sufficient to allow the Treasury to fulfil its role in protecting public funds when use of the SRR is being considered in a crisis. Notwithstanding this, the power of direction in the 2012 Act will cover the SRR to put beyond legal doubt the Chancellor's ability to require the Bank to take specific action when public funds are at risk. This is a backstop power, and it is not anticipated that its use will be considered in the majority of crisis situations.

43. As with directions involving liquidity, when the Chancellor directs the Bank to implement a specific option under the SRR, the Treasury will provide the Bank with indemnities covering any risks arising from actions it had taken under direction from the Treasury.

44. The power of direction may be exercised if and only if:

- the Bank has notified the Treasury of a material risk of circumstances arising in which public funds will be at risk in accordance with section 58 of the Act; and
- the Chancellor, having consulted the Governor, is satisfied that the direction is either a necessary response to a serious threat to financial stability or, where financial assistance has already been provided in respect of a firm to resolve or reduce such a serious threat, necessary to protect the public interest.

45. Upon a direction being given, that direction, along with any response the Bank may wish to make, will be laid immediately before Parliament. The only circumstance in which the direction would not be immediately laid before Parliament will be when such disclosure would reveal the existence of a support operation that the Treasury had decided needs to be covert in order to preserve financial stability. In that case, the Chancellor will notify the Chairs of the Treasury Select Committee and the Public Accounts Committee in confidence immediately. The direction and any Bank response will be laid before Parliament when the Treasury, having consulted the Bank, has decided that the need for confidentiality of the support operation has passed.

46. This power of direction is not available in relation to (1) supervisory decisions taken by the PRA or by the rest of the Bank in its regulation of systemic post-trade infrastructure; (2) policy decisions made by the MPC and FPC; (3) changes to the Bank's published framework for providing liquidity support to the financial system.

#### Other aspects of co-ordination

##### *Other organisations*

47. In some cases, the Financial Conduct Authority, the Financial Services Compensation Scheme or other organisations may need to be involved in the monitoring and assessment of risks, or the planning and implementation of financial sector interventions. The Bank and Treasury will involve these organisations as necessary.

##### *Compliance with international obligations*

48. Action to manage a potential financial crisis may give rise to considerations of compliance with the UK's international obligations, particularly those arising from European law. The Government is legally responsible for ensuring that this compliance is achieved. The Bank and the Treasury will therefore coordinate activity

to ensure that actions considered or taken are assessed for compliance with those international obligations.

49. In particular, use of the Special Resolution Regime or other interventions in respect of failing firms may require the European Commission to be notified of, and approve, the measure on State aid grounds, whether or not public funds are deployed. The Treasury is responsible for developing the UK policy and framework for State aid in financial services. The Bank will develop options for intervention or resolution that are consistent with this framework, and will prepare initial State aid notifications in consultation with the Treasury. The formal State aid notification to the European Commission will be made by the Treasury acting on behalf of the UK Government. The Bank will support the Treasury in securing State aid approval when the issue has arisen from its actions.

#### *Communicating with Parliament and the public*

50. Treasury Ministers are responsible for keeping Parliament informed of action taken to manage a financial crisis – including action taken by the Bank without any public funds implications. Consistent with the principles described above, the Bank will keep the Treasury informed to the degree needed for Ministers to fulfil this function.

51. The Bank and the Treasury will also work closely together to ensure that wider communication – including provision to the markets of information relating to regulatory reporting events, and communication to the general public about the progress of a financial crisis and the steps being taken to manage them – is carried out effectively.

52. Within that, the Bank is responsible for communications to the market: about the use of its balance sheet; about measures concerning critical financial infrastructure arising from its oversight under the 2009 and 2012 Acts; through the PRA, about the PRA's regulation and supervision of individual firms; and about any measures taken by the Bank under the SRR, excepting any use of public money by the Treasury in association with those measures.

## **ORDERS**

### **General**

1998 No 1120 The Bank of England Act 1998 (Commencement) Order 1998

1998 No 2372 Bank of England Act 1998 (Transfer Scheme Appointed Day) Order 1998

### **Cash ratio deposits**

1998 No 1130 The Cash Ratio Deposits (Eligible Liabilities) Order 1998

2013 No 721 Bank of England (Call Notice) (Benchmark Rate of Interest) Order 2013

2018 No 633 The Cash Ratio Deposits (Value Bands and Ratios) Order 2018

### **Information powers**

1998 No 1270 The Bank of England (Information Powers) Order 1998

### **Macro-prudential**

2013 No 644 Bank of England Act 1998 (Macro-prudential Measures) Order 2013

2015 No 905 Bank of England Act 1998 (Macro-prudential Measures) (No 2) Order 2015

2015 No 909 Bank of England Act 1998 (Macro-prudential Measures) Order 2015