Draft Order laid before Parliament under sections 47(5) and 81D(3) of the Banking Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. 000

FINANCIAL SERVICES AND MARKETS

The Banking Act 2009 (Banking Group Companies) Order 2014

Made - - - -	*00 July 2014*
Coming into force - -	*1st August 2014*

The Treasury make the following Order in exercise of the powers conferred by sections 47, 81D(1) and 259(1) of the Banking Act 2009(**1**).

A draft of this Order has been laid before and approved by resolution of each House of Parliament in accordance with sections 47(5) and 81D(3) of that Act.

Citation and commencement

1. This Order may be cited as the Banking Act 2009 (Banking Group Companies) Order 2014, and comes into force on 1st August 2014.

Interpretation

2.—(1) In this Order—

"the bank", in relation to any undertaking, means the bank in the same group as that undertaking in respect of which the PRA is satisfied that the general conditions for the exercise of a stabilisation power are met;

"covered bond vehicle" means a limited liability partnership—

(a) which is a party to a capital market arrangement (within the meaning given in section 72B of the Insolvency Act 1986(**2**)) or a transaction in pursuance of such a capital market arrangement; and

(b) whose trade or business (ignoring any incidental activities) consists wholly or mainly of one or both of the following—

(i) providing guarantees;

(**1**) 2009 c. 1. Section 81D was inserted by the Financial Services Act 2012 (c. 21), section 100.
(**2**) 1986 c. 45. See paragraph 1 of Schedule 2A to the Act. Section 72B and Schedule 2A were inserted by the Enterprise Act 2002 (c. 40), section 250 and Schedule 18.

(ii) acquiring, owning and managing assets directly or indirectly forming the whole or part of the security for the capital market arrangement;

"financial holding company" means a company which is—

(a) a financial institution; and

(b) a parent whose subsidiaries are exclusively or mainly—

(i) credit institutions;

(ii) financial institutions;

(iii) investment exchanges;

(iv) investment firms; or

(v) central counterparties;

"financial institution" has the meaning given by point (26) of Article 4(1) of the Capital Requirements Regulation;

"mixed activity holding company" means a parent—

(a) whose subsidiaries include at least one—

(i) credit institution;

(ii) investment firm; or

(iii) central counterparty;

(b) which is not itself a credit institution, investment firm or central counterparty; and

(c) which, together with its subsidiaries, constitutes a group which—

(i) fails to meet condition (b)(i) in point 14 of Article 2 of the Supplementary Supervision Directive (condition for group being considered a financial conglomerate that its activities occur mainly in the financial sector);

(ii) if its subsidiaries include a central counterparty or investment exchange, would fail to meet that condition if such entities were financial sector entities for the purposes of Article 3(1) of the Supplementary Supervision Directive;

"parent" means a parent undertaking within the meaning given by section 1162 of the Companies Act 2006(**3**);

"securitisation company" means—

(a) a company of a kind mentioned in section 83(2) of the Finance Act 2005(**4**) (meaning of "securitisation company"); or

(b) a company that meets condition A specified in regulation 4 of the Taxation of Securitisation Companies Regulations 2006(**5**) (meaning of "securitisation company"); and

"subsidiary" means a "subsidiary undertaking" within the meaning given by section 1162 of the Companies Act 2006.

(2) In this article, for the interpretation of "financial holding company", "financial institution" and "mixed activity holding company"—

"the Capital Requirements Regulation" means Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26th June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012(**6**);

(**3**) 2006 c. 46.
(**4**) 2005 c. 7.
(**5**) S.I. 2006/3296 as amended by S.I. 2007/3401 and 2007/3339. There are other amendments not relevant to this Order.
(**6**) OJ No. L 176, 27.6.2013, p. 1-137. For corrigenda see OJ No. L 208, 2/8/2013, p. 68 and OJ No. L 321,30/11/2013, p. 6.

"central counterparty" has the meaning given by section 313(1) of the Financial Services and Markets Act 2000(**7**);

"credit institution" has the meaning given by point (1) of Article 4(1) of the Capital Requirements Regulation;

"investment firm" has the meaning given by point (2) of Article 4(1) of the Capital Requirements Regulation; and

"the Supplementary Supervision Directive" means Directive 2002/87/EC of the European Parliament and of the Council of 16th December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22EEC and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council(**8**).

Specified conditions

3.—(1) The following conditions are specified for the purposes of section 81D(1) of the Banking Act 2009.

(2) Subject to paragraphs (3) and (4), the undertaking must be—

(a) a subsidiary of the bank;

(b) a parent of the bank; or

(c) a group subsidiary.

(3) Where the bank is a subsidiary of a mixed activity holding company ("the MAHC") and of a financial holding company which is also a subsidiary of the MAHC—

(a) the MAHC is not a parent for the purposes of paragraph (2)(b); and

(b) a group subsidiary which is a subsidiary of the MAHC is not a group subsidiary for the purposes of paragraph (2)(c) unless it is—

(i) a financial institution; or

(ii) a subsidiary of a financial institution which is also a subsidiary of the MAHC.

(4) If the undertaking is a covered bond vehicle or a securitisation company, it must be—

(a) an investment firm(**9**); or

(b) a financial institution.

(5) A company which is a warehouse company within the meaning given by section 83(6) of the Finance Act 2005 or regulation 8 of the Taxation of Securitisation Companies Regulations 2006 is not a securitisation company for the purposes of paragraph (4) unless its business is carried on for the purposes of an existing asset-holding or note-issuing company.

(6) In this article "group subsidiary" means a subsidiary of a parent of the bank which is not a parent or subsidiary of the bank.

(**7**) 2000 c. 8. The definition of "central counterparty" was inserted by S.I. 2013/504. There are other amendments to section 313(1) not relevant to this Order.

(**8**) OJ No. L 35, 11.2.2003, p. 1-27, as amended by Directive 2011/89/EU (OJ No. L 326, 8.12.2011, p. 113-141) and Directive 2013/36/EU (OJ No. L176, 27.6.2013, p. 338). There are other amendments not relevant to this Order.

(**9**) By virtue of S.I. 2014/9999 "investment firm" in the Banking Act 2009 does not include an investment firm of a description given in Article 29 of Directive 2013/36/EU (OJ No. L 176, 27.6.2013, p. 338-436), which is not subject to the initial capital requirement (EUR 730,000) specified in Article 28(2) of that Directive.