Draft Order laid before Parliament under sections 47(5) and 48(6) of the Banking Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. ***

BANKS AND BANKING

The Banking Act 2009 (Restriction of Partial Property Transfers) (Amendment) Order 2009

Made - - - -	**** 2009*
Coming into force - -	**** 2009*

The Treasury make this Order in exercise of the powers conferred by sections 47, 48 and 259(1) of the Banking Act 2009(**1**).

A draft of this Order has been laid before and approved by a resolution of each House of Parliament in accordance with sections 47(5) and 48(6) of that Act.

Citation and commencement

1. This Order may be cited as the Banking Act 2009 (Restriction of Partial Property Transfers) (Amendment) Order 2009 and shall come into force on the day after the day on which it is made.

Amendment

2. The Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009(**2**) is amended as follows.

3. In article 1(3)—

(a) after the definition of "the Bank" insert—

> ""Banking Consolidation Directive" means Directive 2006/48/EC of the European Parliament and of the Council relating to the taking up and pursuit of the business of credit institutions(**3**);";

(b) in paragraphs (c) and (d) of the definition of "excluded rights"—

(i) delete "solely"; and

(**1**) 2009 c.1.
(**2**) S.I. 2009/322.
(**3**) OJ L177 30.6.2006 p.1.

(ii) after "instruments" insert "or an activity referred to in Annex I to the Banking Consolidation Directive";

(c) at the end of paragraph (d) of the definition of "excluded rights" delete "or";

(d) after paragraph (e) of the definition of "excluded rights" insert—

"or

(f) which relate to transferable securities (other than transferable securities referred to or described in a set-off arrangement, netting arrangement or title transfer financial collateral arrangement referred to in article 3(1));";

(e) in the definition of "financial instrument"—

(i) the words from "any instrument" to the end become paragraph (a);

(ii) for the words from "Directive" to "instruments" substitute "the Markets in Financial Instruments Directive";

(iii) at the end insert—

"(b) any option, future, swap, forward, contract for differences or other derivative contract not falling within paragraph (a); and

(c) any combination of any of the foregoing;";

(f) after the definition of "financial instrument" insert—

""Markets in Financial Instruments Directive" means Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments(**4**);";

(g) in the definition of "relevant authority" substitute "(a)" and "(b)" for "(f)" and "(g)" respectively;

(h) in the definition of "relevant financial instrument"—

(i) substitute "(a)", "(b)", "(c)" and "(d)" for "(h)", "(i)", "(j)" and "(k)" respectively;

(ii) after "loan;" delete "or";

(iii) at the end insert—

"or

(e) any contract for the sale, purchase or delivery of—

(i) transferable securities;

(ii) the currency of the United Kingdom or any other country, territory or monetary union;

(iii) palladium, platinum, gold, silver or any other precious metal; or

(iv) any other commodity; ";

(i) in the definition of "retail deposit" substitute "(a)" and "(b)" for "(l)" and "(m)" respectively;

(j) after the definition of "title transfer financial collateral arrangements" insert—

";

"transferable securities" has the meaning given by Article 4(18) of the Markets in Financial Instruments Directive".

4. In article 3(6) for the words from "shall" to "subordinated debt" in the second place where they occur substitute "and the references to transferable securities in paragraph (f) of the definition

(**4**) OJ L145 30.4.2004 p.1.