EXPLANATORY MEMORANDUM TO

THE BANK RECOVERY AND RESOLUTION AND MISCELLANEOUS PROVISIONS (AMENDMENT) (EU EXIT) REGULATIONS 2018

2018 No. 1394

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Act.

2. Purpose of the instrument

2.1 This instrument is principally being made in order to address deficiencies in retained EU law in relation to the UK's special resolution regime arising from the withdrawal of the United Kingdom (UK) from the European Union (EU), ensuring the legislation continues to operate effectively at the point at which the UK leaves the EU.

2.2 This instrument also brings up to date certain references in the relevant legislation to European legislation.

Explanations

What did any relevant EU law do before exit day?

2.3 The Bank Recovery and Resolution Directive (BRRD), entered into force on 2 July 2014. The Directive established a common approach within the EU to the recovery and resolution of banks and investment firms, reflecting the Financial Stability Board's Key Attributes of Effective Resolution Regimes for financial institutions (FSB Key Attributes). The Directive aims to provide member states with a common framework for the resolution of banks and investment firms, as well as ensuring cooperation between member states, and with third countries, in planning for and managing the failure of cross-border firms.

Why is it being changed?

2.4 The Banking Act 2009 established the UK's Special Resolution Regime. This regime now provides the Bank of England, the Prudential Regulation Authority (PRA) the Financial Conduct Authority (FCA) and HM Treasury with tools to protect financial stability by effectively resolving banks, building societies, investment firms, banking group companies and central counterparties that are failing, while protecting depositors, client assets, taxpayers and the wider economy.

2.5 The Banking Act 2009 was amended in 2014 as part of the UK implementation of the BRRD. The legislative part of the UK's implementation of the BRRD was achieved through several statutory instruments which amended existing UK legislation or enacted entirely new provisions.

2.6 HM Treasury's approach to onshoring the BRRD is to ensure that the UK's Special Resolution Regime is legally and practically workable on a standalone basis once the UK has left the EU. The policy aims of the BRRD will remain a core element of this regime, providing continuity and certainty as the UK leaves the EU, and conformity with the FSB Key Attributes. However, some changes are required to reflect the UK's

new position outside the EU. These changes are to address places where UK legislation is deficient as a result of the UK's withdrawal from the EU.

What will it now do?

2.7 In line with the approach taken in the other Financial Services EU Exit instruments, this instrument will amend the Banking Act 2009, the Insolvency Act 1986, subordinated legislation and EU tertiary legislation so that they treat the EEA no differently from other third countries.

2.8 Following EU withdrawal, the UK will retain (with amendments) its third country recognition framework and expand its scope to include EEA-led resolutions. This approach is consistent with the UK's G20 commitments and the FSB Key Attributes. In particular, the Key Attributes set out the need for transparent and expedited processes to give effect to foreign resolution measures.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

4. Extent and Territorial Application.

4.1 The territorial extent of this instrument is the whole of the United Kingdom.

4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

5.1 The Economic Secretary of the Treasury has made the following statement regarding Human Rights:

"In my view the provisions of the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument amends Part 1 of the Banking Act 2009 and schedule 6 to the Insolvency Act 1986 and related subordinate legislation (the Bank Recovery and Resolution (No.2) Order 2014, the Banking Act 2009 (Third Party Compensation Arrangements for Partial Property Transfers) Regulations 2009, the Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009, the Banking Act 2009 (Banking Group Companies) Order 2014, the Bank Recovery and Resolution Order 2014, the Banking Act 2009 (Mandatory Compensation Arrangements Following Bail-in) Regulations 2014, the Banking Act 2009 (Restriction of Special Bail-in Provision, etc.) Order 2014, the Building Societies (Bail-in) Order 2014 and, the Bank

Recovery and Resolution Order 2016[1]) to address deficiencies arising from the UK's exit from the EU.

6.2 This instrument also amends retained direct EU legislation, that is,the Commission's Delegated Regulations that related to the BRRD to remove deficiencies arising from the UK's exit from the EU or repeal provisions which are no longer required.

6.3 The instrument also includes miscellaneous provisions that address deficiencies arising from the UK's exit from the EU contained in Schedule 7 to the Financial Services (Banking Reform) Act 2013 and the Banking Act 2009 (Restriction of Partial Property Transfers) (Recognised Central Counterparties) Order 2014[2].

7. Policy background

What is being done and why?

7.1 The UK will leave the EU on 29 March 2019. The UK and the EU have agreed the terms of an implementation period that will start on 29 March 2019 and last until 31 December 2020. This will provide time to introduce the new arrangements that will underpin the UK-EU future relationship, and provide valuable certainty for businesses and individuals. During the implementation period, common rules will continue to apply. The UK will continue to implement new EU law that comes into effect and the UK will continue to be treated as part of the EU's single market in financial services. This will mean that access to each other's markets will continue on current terms and businesses, including financial services firms, will be able to trade on the same terms as now until 31 December 2020. UK firms will need to comply with any new EU legislation that becomes applicable during the implementation period.

7.2 The government is seeking a deep and special future partnership with the EU, which should be greater in scope and ambition than any such agreement before and encompass financial services. Given the highly regulated nature of financial services, the volume of trade between UK and EU markets, and a shared desire to manage financial stability risks, the UK proposes a new economic and regulatory arrangement that will preserve mutually beneficial cross-border business models and economic integration for the benefit of businesses and consumers. Decisions on market access would be autonomous in our proposed model, but would be underpinned by stable institutional processes in a bilateral agreement and continued close regulatory and supervisory cooperation.

7.3 While the government has every confidence that a deal will be reached and the implementation period will be in place, it has a duty to plan for all eventualities, including a 'no deal' scenario. The government is clear that this scenario is in neither the UK's nor the EU's interest, and the government does not anticipate it arising. To prepare for this unlikely eventuality, HM Treasury intends to use powers in the European Union (Withdrawal) Act 2018 (EUWA) to ensure that the UK continues to have a functioning financial services regulatory regime in all scenarios.

7.4 The EUWA repeals the European Communities Act 1972 and converts into UK domestic law the existing body of directly applicable EU law (including EU Regulations). It also preserves UK laws relating to EU membership – e.g. legislation

[1] S.I. 2014/3348, 2009/319, 2009/322, 2014/1831, 2014/3329, 2014/3330, 2014/3350, 2014/3344 and 2016/1239.
[2] S.I. 2014/1828.

implementing EU Directives. This body of law is referred to as "retained EU law". The EUWA also gives ministers a power to prevent, remedy or mitigate any failure of EU law to operate effectively, or any other deficiency in retained EU law, through SIs. These contingency preparations for financial services legislation are sometimes referred to as 'onshoring'. These SIs are not intended to make policy changes, other than to reflect the UK's new position outside the EU, and to smooth the transition to this situation. The scope of the power is drafted to reflect this purpose and is subject to further restrictions, such as the inability to use the power to impose or increase taxation, or establish a public authority. The power is also time-limited and falls away two years after exit day.

7.5 Wherever practicable, the proposed approach is that the same laws and rules that are currently in place in the UK would continue to apply at the point of exit, providing continuity and certainty as we leave the EU. However, if the UK does not enter an implementation period, some changes would be required to reflect the UK's new position outside the EU from 29 March 2019.

7.6 In the unlikely scenario that the UK leaves the EU without a deal, the UK would be outside the EU's framework for financial services. The UK's position in relation to the EU would be determined by the default Member State and EU rules that apply to third countries at the relevant time. The European Commission has confirmed that this would be the case.

7.7 In light of this, the approach in this scenario cannot and does not rely on any new, specific arrangements being in place between the UK and the EU. As a general principle, the UK would also need to default to treating EU Member States largely as it does other third countries, although there are cases where a different approach would be needed including to provide for a smooth transition to the new circumstances.

7.8 HM Treasury published a document on 27 June 2018, which sets out in more detail HM Treasury's approach to financial services legislation under the European Union (Withdrawal) Act. (https://www.gov.uk/government/publications/financial-services-legislation-under-the-eu-withdrawal-act)

7.9 This is a EU Exit SI principally made under section 8 of the EU (Withdrawal) Act and is one of a number of instruments that will ensure that there is a stable and functioning UK financial services regulatory regime at the point at which the UK leaves the EU in March 2019, if an Implementation Period is not secured. This instrument assumes that no deal is reached with the EU, that the EU treats the UK as a third country, and so that the UK would treat the EU like a third country, to ensure the UK regulatory regime is robust in such a scenario.

7.10 This instrument is being laid as a contingency, to ensure there is a functioning regulatory regime when the UK leaves the EU, in any scenario. Reflective of ongoing negotiations between the UK and the EU, this instrument will be kept under review, and will be amended or revoked if further or different changes are required to implement the outcome of those negotiations.

7.11 This instrument amends the UK's Special Resolution Regime that was established by the Banking Act 2009 and then amended in 2014 as part of the UK implementation of the BRRD. The legislative part of the UK implementation of the BRRD was achieved through several statutory instruments which amended existing UK legislation in order to ensure the BRRD was implemented into UK law.

7.12 The BRRD established an EU wide framework for the recovery and resolution of credit institutions and investment firms that are failing or likely to fail, reflecting the Financial Stability Board's Key Attributes of Effective Resolution Regimes for financial institutions (FSB Key Attributes).

7.13 HM Treasury's approach to onshoring the BRRD is to ensure that the UK's Special Resolution Regime is legally and practically workable on a standalone basis once the UK has left the EU. The policy aims of the BRRD will remain a core element of this regime, providing continuity and certainty as the UK leaves the EU, and conformity with the FSB Key Attributes. However, some changes are required to reflect the UK's new position outside the EU. These changes are to address places where UK legislation is deficient as a result of the UK's withdrawal from the EU. Some of the key deficiencies that this instrument seeks to address are listed below.

7.14 Firstly, broadly speaking for resolution policy, aligning the treatment for EEA states with that for third countries will mean that EEA-led resolutions will be recognised in the UK, unless doing so is contrary to one or more statutory safeguards.

- This means that once the UK leaves the EU, the same approach will apply to the recognition of EEA-led resolutions as currently applies to the recognition of third country resolutions. This is consistent with the UK's G20 commitments and the FSB Key Attributes. In particular, the Key Attributes set out the need for transparent and expedited processes to give effect to foreign resolution measures.
- Following EU withdrawal, the UK will retain (with amendments) its third country recognition framework and expand its scope to include EEA-led resolutions.
- This framework applies to third country resolution actions that are broadly comparable in terms of their objectives and anticipated results to resolution actions taken under the UK regime. Refusal of such actions is only permitted where the Bank of England and HM Treasury are satisfied that one or more statutory grounds for refusal exist. The conditions for refusing recognition are set out in section 89H(4) of the Banking Act 2009, which will be amended by this instrument to reflect the UK's new position, such as by replacing references to the 'EEA' with 'UK'.
- These conditions will be that recognition may only be refused if one or more of the following are met:
    - recognition would have an adverse effect on financial stability in the UK;
    - in order to achieve one or more of the special resolution objectives, it is necessary for UK authorities to take action in respect of a branch of the bank in question located in the UK;
    - the third country resolution action treats creditors (particularly depositors) who are located or payable in the UK less favourably than creditors who are located or payable in the third country and have similar legal rights;
    - recognition would have material fiscal implications for the UK;
    - recognition would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention).

7.15 Secondly, UK law currently requires the UK regulators to follow the operational and procedural mechanisms set out in the BRRD to cooperate with other EEA authorities. For example, provisions in UK law require the UK's participation in European resolution colleges and joint assessment and decision-making between UK and EU regulators. They also require the UK to consult and inform the European Banking Authority (EBA) and other EEA competent authorities in decision making. When the UK withdraws from the EU, the BRRD will no longer apply to the UK. As a result, the requirement to have these operational mechanisms will fall away in relation to the UK. Therefore, the draft instrument removes the deficient references to the BRRDfrom UK law.

7.16 The removal of these BRRD operational mechanisms does not prevent UK regulators from co-operating with their EEA counterparts after Exit. Following the UK's withdrawal from the EU, both the Financial Services and Markets Act 2000 and the Banking Act 2009 will allow the UK authorities to continue to share information with EEA counterparts, in the same way as with authorities in third countries, subject to statutory restrictions on the disclosure of confidential information.

7.17 Thirdly, throughout UK legislation there are numerous cross references to the BRRD. As the BRRD itself will not be retained in UK law after EU Exit, the deficient cross references to it will be incorporated directly into UK law or replaced by references to UK transposing provisions to retain the concepts that would have otherwise been lost. This approach is to avoid changes to the underlying policy intention while addressing the deficiency arising because of EU Exit. This is especially the case when referring to terms defined by the BRRD. Cross references to the Capital Requirements Regulation (CRR), such as in relation to consolidated group supervision, will not be copied out but will refer instead to the 'on-shored' version of the CRR.

7.18 Fourthly, this instrument also makes changes to the BRRD delegated regulations retained by the EU (Withdrawal) Act to ensure that they continue to be workable following the UK's withdrawal. A small number of the BRRD delegated regulations will be revoked where they do not apply to the UK.

7.19 The BRRD includes mandates for BTS relating to resolution and supervisory matters. These regulations transfer BTS responsibility to the Bank of England where the BTS relates to the powers of the resolution authority. Where the BTS relate to supervisory matters, responsibility has been transferred to the PRA and FCA as appropriate. The regulators will update industry and stakeholders on their approach towards these BTS in due course. Regulation making powers are conferred on the Treasury to replace policy setting delegated powers that were previous conferred on the European Commission.These transfers of legislative functions fall within paragraph 1(2)(a) of Schedule 7 to EUWA which is why these regulations are subject to the affirmative procedure.

7.20 Alongside this instrument the UK regulators will update their rulebooks and policies to take into account the UK's new position and address any deficiencies arising from UK's withdrawal from the EU. Additionally, under the terms of the Financial Regulators' Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations 2018, HM Treasury has transferred responsibility for fixing any deficiencies arising from EU Exit that exist in certain detailed EU rules known as Binding Technical Standards (BTS) to the UK financial regulators.

8. European Union (Withdrawal) Act

8.1 This instrument is being made using powers in the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

8.2 Powers under the European Communities Act 1972 are also being exercised in making this instrument to update references to EU Regulations that are contained in bank recovery and resolution legislation. These are technical changes to ensure that after EU exit day these references are interpreted as being references to the versions of the EU Regulations which form part of domestic law under section 3 of the European Union (Withdrawal) Act. Through the operation of an anticipated further statutory instrument the reference will be to the English language version and will take account of future onshoring amendments achieved by domestic legislation.

9. Consolidation

9.1 The Government has no plans to create a consolidated version of the Banking Act or related subordinated legislation.

10. Consultation outcome

10.1 HM Treasury has not undertaken a consultation on the instrument, but has engaged with relevant stakeholders on its approach to Financial Services legislation under the European Union (Withdrawal) Act 2018, including on this instrument, in order familiarise them with the legislation ahead of laying. In particular, we have engaged extensively with the FCA and Bank of England in drafting the text.

10.2 The instrument was also published in draft, along with an explanatory policy note, on 8th October 2018, in order to maximise transparency ahead of laying. (https://www.gov.uk/government/publications/draft-bank-recovery-and-resolution-and-miscellaneous-provisions-amendment-eu-exit-regulations-2018)

10.3 The financial services regulators plan to undertake public consultation in the Autumn on any changes they propose to make to Binding Technical Standards and/or rules made under the powers conferred upon them by the Financial Services and Markets Act 2000.

11. Guidance

11.1 In the context of this draft instrument, the Government will publish a revised version of the Special Resolution Regime's Code of Practice document. This document supports the legal framework of the Special Resolution Regime and provides guidance as to how and in what circumstances the authorities will use the special resolution tools.

12. Impact

12.1 The impacts on business, charities or voluntary bodies are minimal and mainly consist of familiarisation costs as this instrument preserves the status quo in terms of regulation.

12.2 The impacts on the public sector are minimal and mainly consist of familiarisation costs.

12.3 A full Impact Assessment will be published alongside the Explanatory Memorandum on the legislation.gov.uk website, when an opinion from the Regulatory Policy Committee has been received.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 While no deposit-taking banks or building societies in the UK are likely to meet the definition of a small or medium-sized enterprise (SME) there may be investment firms which are small businesses and are covered by this legislation.

13.3 This draft instrument does not affect previous measures that were taken to address the possible impact on small businesses, such as public interest test for exercise of the resolution powers in the Banking Act 2009, and the provision of simplified obligations that apply to firms whose failure would be unlikely to have a significant negative effect on financial markets or the wider economy. The factors taken into consideration in determining whether this is the case include an institution's size, the scope of its activities, its risk profile and/or its interconnectedness to the rest of the financial system.

14. Monitoring & review

14.1 As this instrument is principally made under the EU Withdrawal Act 2018, no review clause is required.

14.2 Previous commitments to review the existing legislation within 5 years of the order being made are not affected by this amending instrument.

15. Contact

15.1 Theodore Read, Policy Adviser at HM Treasury, Telephone: 020 7270 6460 or email: theodore.read@hmtreasury.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Lowri Khan, Director for Financial Stability, at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Economic Secretary to the Treasury (John Glen MP) can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

1.1 The Economic Secretary of the Treasury (John Glen MP) has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 does no more than is appropriate".

1.2 This is because without the instrument the UK's Special Resolution Regime would not be able to operate on a standalone basis in UK law. Without this instrument, the powers of the UK regulators to manage the failure of institutions and banking group companies would be severely limited.

2. Good reasons

2.1 The Economic Secretary of the Treasury (John Glen MP) has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action".

2.2 These are that the provisions are necessary to ensure both that UK's Special Resolution Regime can operate on a standalone basis in UK law and that existing requirements towards EEA states are removed because they would be inappropriate without guaranteed reciprocal treatment.

3. Equalities

3.1 The Economic Secretary of the Treasury (John Glen MP) has made the following statement(s):

"The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts."

3.2 The Economic Secretary of the Treasury (John Glen MP) has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the instrument, I, the Economic Secretary to the Treasury (John Glen MP) have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.".

4. Explanations

4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.

5. Legislative sub-delegation

5.1 The Economic Secretary to the Treasury (John Glen MP) has made the following statement):

"In my view it is appropriate to create the relevant sub-delegated powers in the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018".

5.2 It is appropriate to delegate the power to make regulatory technical standards to the Bank of England, PRA and FCA because it will give them the necessary powers to ensure that EU-derived technical regulations for which they are responsible will operate effectively after exit, subject to mechanisms to ensure robust HM Treasury oversight. This is considered appropriate as the regulators will have the requisite technical knowledge to make assessment of certain matters, such as the quantum of loss absorbing capacity which firms must hold and the instruments which must include contractual recognition of bail-in clauses. This is in line with the approach that the government has set out in which legislative responsibility for Level 2 technical legislation in financial services will be transferred to the financial regulators, while the Treasury will have responsibility for changes to Level 1 legislation which Parliament will approve.