

LORDS AMENDMENTS TO THE
BANKING BILL

[The page and line references are to HL Bill 13, the bill as first printed for the Lords.]

Clause 4

1 Page 3, line 24, at end insert –

“(8A) In subsection (4), the reference to the stability of the financial systems of the United Kingdom includes, in particular, a reference to the continuity of banking services.”

Clause 5

2 Page 3, line 33, leave out paragraph (a) and insert –

“(a) how the special resolution objectives are to be understood and achieved,

(aa) the choice between different options,”

3 Page 3, line 40, leave out “and”

4 Page 4, line 1, leave out paragraph (f) and insert –

“(f) sections 63 and 66, and

(g) compensation.”

Clause 10

5 Page 6, line 3, at end insert “the effect of the special resolution regime on –

(a) banks,

(b) persons with whom banks do business, and

(c) the financial markets.

(1A) In particular, the panel may advise the Treasury about –

(a) ”

6 Page 6, line 6, leave out “and third party compensation orders” and insert “, third party compensation orders and orders under section 75(2)(b) and (c)),

“(b) the code of practice under section 5, and

(c) anything else referred to the panel by the Treasury.”

Clause 22

7 Page 10, line 15, after “means” insert “a Type 1 or Type 2 default event provision as defined in subsections (1A) and (1B).”

(1A) A Type 1 default event provision is”

8 Page 10, line 16, after “that” insert “has the effect that”

9 Page 10, line 16, at end insert “or situation arises”

10 Page 10, line 27, at end insert –

“(1B) A Type 2 default event provision is a provision of a contract or other agreement that has the effect that a provision of the contract or agreement –

- (a) takes effect only if a specified event occurs or does not occur,
- (b) takes effect only if a specified situation arises or does not arise,
- (c) has effect only for so long as a specified event does not occur,
- (d) has effect only while a specified situation lasts,
- (e) applies differently if a specified event occurs,
- (f) applies differently if a specified situation arises, or
- (g) applies differently while a specified situation lasts.

(1C) For the purposes of subsections (1A) and (1B) it is the effect of a provision that matters, not how it is described (nor, for example, whether it is presented in a positive or a negative form).”

11 Page 10, line 38, after “that” insert “is done by the instrument or order or”

12 Page 10, line 43, after “(4)” insert –

“(a) ”

13 Page 10, line 44, at end insert “, cases or circumstances;

(b) differently for different purposes, cases or circumstances.”

14 Page 10, line 44, at end insert –

“(7) A thing is not done by virtue of an instrument or order for the purposes of subsection (5)(b) merely by virtue of being done under a contract or other agreement rights or obligations under which have been transferred by the instrument or order.”

Clause 23

15 Page 11, line 5, after “purposes,” insert “cases or circumstances,”

16 Page 11, line 6, at end insert “, cases or circumstances.”

Clause 24

17 Page 11, line 19, at end insert –

“(3) Where the Treasury receive a copy of a share transfer instrument under subsection (1) they shall lay a copy before Parliament.”

Clause 34

18 Page 16, line 12, at end insert –

- “(5) A property transfer instrument may provide for a transfer to be conditional upon a specified event or situation –
- (a) occurring or arising, or
 - (b) not occurring or arising.
- (6) A property transfer instrument may include provision dealing with the consequences of breach of a condition imposed under subsection (5); and the consequences may include –
- (a) automatic vesting in the original transferor;
 - (b) an obligation to effect a transfer back to the original transferor, with specified consequences for failure to comply (which may include provision conferring a discretion on a court or tribunal);
 - (c) provision making a transfer or anything done in connection with a transfer void or voidable.”

19 Page 16, line 12, at end insert –

- “(7) Where a property transfer instrument makes provision in respect of property held on trust (however arising) it may also make provision about –
- (a) the terms on which the property is to be held after the instrument takes effect (which provision may remove or alter the terms of the trust), and
 - (b) how any powers, provisions and liabilities in respect of the property are to be exercisable or have effect after the instrument takes effect.”

Clause 36

20 Page 17, line 5, leave out subsection (7)

Clause 38

21 Page 17, line 29, after “means” insert “a Type 1 or Type 2 default event provision as defined in subsections (1A) and (1B).”

(1A) A Type 1 default event provision is”

22 Page 17, line 30, after “that” insert “has the effect that”

23 Page 17, line 30, at end insert “or situation arises”

24 Page 17, line 41, at end insert –

- “(1B) A Type 2 default event provision is a provision of a contract or other agreement that has the effect that a provision of the contract or agreement –
- (a) takes effect only if a specified event occurs or does not occur,
 - (b) takes effect only if a specified situation arises or does not arise,
 - (c) has effect only for so long as a specified event does not occur,
 - (d) has effect only while a specified situation lasts,
 - (e) applies differently if a specified event occurs,
 - (f) applies differently if a specified situation arises, or

(g) applies differently while a specified situation lasts.

(1C) For the purposes of subsections (1A) and (1B) it is the effect of a provision that matters, not how it is described (nor, for example, whether it is presented in a positive or a negative form)."

25 Page 18, line 9, leave out "to be, or that" and insert "done by the instrument or is to be, or"

26 Page 18, line 14, after "(4)" insert –
“(a) ”

27 Page 18, line 15, at end insert “, cases or circumstances;
(b) differently for different purposes, cases or circumstances.”

28 Page 18, line 15, at end insert –

“(7) A thing is not done by virtue of an instrument for the purposes of subsection (5)(b) merely by virtue of being done under a contract or other agreement rights or obligations under which have been transferred by the instrument.”

Clause 40

29 Page 19, line 5, after “purposes,” insert “cases or circumstances,”

30 Page 19, line 6, at end insert “, cases or circumstances.”

Clause 41

31 Page 19, line 19, at end insert –

“(3) Where the Treasury receive a copy of a property transfer instrument under subsection (1) they shall lay a copy before Parliament.”

Clause 48

32 Page 23, line 15, after “acquires” insert “, by way of security,”

33 Page 23, leave out lines 16 and 17 and insert –

“(aa) “title transfer collateral arrangements” are arrangements under which Person 1 transfers assets to Person 2 on terms providing for Person 2 to transfer assets if specified obligations are discharged,”

34 Page 23, line 18, leave out “or “netting””

35 Page 23, line 19, leave out from beginning to “and” and insert “two or more debts, claims or obligations can be set off against each other,”

36 Page 23, line 20, leave out “includes,” and insert “are arrangements under which a number of claims or obligations can be converted into a net claim or obligation and include,”

37 Page 23, line 21, after “which” insert “actual or”

38 Page 23, line 23, at end insert –

“or to be converted into a net debt, and

(d) “protected arrangements” means security interests, title transfer collateral arrangements, set-off arrangements and netting arrangements.”

- 39 Page 23, line 26, leave out “security interests or set-off or netting” and insert “protected”
- 40 Page 23, line 29, leave out “security interests or set-off or netting” and insert “protected”
- 41 Page 23, line 33, leave out “security interests or set-off or netting” and insert “protected”
- 42 Page 23, line 39, after first “to” insert “protected”
- 43 Page 23, line 43, leave out “security interests or set-off or netting” and insert “protected”
- 44 Page 24, line 2, at end insert “or trusts;”
- 45 Page 24, line 5, at end insert—
 “(d) involve any number of parties;
 (e) operate partly by reference to other arrangements between other parties.”

Clause 58

- 46 Page 28, line 40, leave out paragraph (a)
- 47 Page 29, line 3, leave out paragraph (a)
- 48 Page 29, line 6, at end insert—
 “(8) A requirement under subsection (6) or (7) is to be complied with only in so far as is compatible with—
 (a) pursuit of the special resolution objectives, and
 (b) compliance with the code of practice under section 5.”

Clause 71

- 49 Page 36, line 30, after “bank” insert “, or a group company of the bank,”
- 50 Page 36, line 30, at end insert—
 “(7) In subsection (6)(b) the reference to a group company of the bank is a reference to anything that is or was a group undertaking in relation to the bank within the meaning given by section 1161(5) of the Companies Act 2006.”

Clause 74

- 51 Page 38, line 9, after “section” insert—
 “(a) ”
- 52 Page 38, line 11, leave out “Regulations under this section” and insert—
 “, and
 (b) ”
- 53 Page 38, line 13, leave out subsection (10)

Clause 75

- 54 Page 38, line 26, at end insert “(but in relying on this subsection the Treasury shall

have regard to the fact that it is in the public interest to avoid retrospective legislation).”

55 Page 38, line 29, leave out second “or”

56 Page 38, line 30, at end insert –

“, or

(c) amend any provision of an instrument or order made in the exercise of a stabilisation power.”

57 Page 39, line 10, at end insert “(in new terms).”

After Clause 80

58 Insert the following new Clause –

“Temporary public ownership: report

- (1) Where the Treasury make one or more share transfer orders under section 13(2) in respect of a bank, the Treasury must lay before Parliament a report about the activities of the bank.
- (2) The first report must be made as soon as is reasonably practicable after the end of one year beginning with the date of the first share transfer order.
- (3) A report must be made as soon as is reasonably practicable after the end of each subsequent year.
- (4) The obligation to produce reports continues to apply in respect of each year until the first during which no securities issued by the bank are owned by –
 - (a) a company wholly owned by the Treasury, or
 - (b) a nominee of the Treasury.”

59 Insert the following new Clause –

“Holding companies: temporary public ownership

- (1) The Treasury may take a parent undertaking of a bank (the “holding company”) into temporary public ownership, in accordance with section 13(2), if the following conditions are met.
- (2) Condition 1 is that the FSA are satisfied that the general conditions for the exercise of a stabilisation power set out in section 7 are met in respect of the bank.
- (3) Condition 2 is that the Treasury are satisfied that it is necessary to take action in respect of the holding company for the purpose specified in Condition A or B of section 9.
- (4) Condition 3 is that the holding company is an undertaking incorporated in, or formed under the law of any part of, the United Kingdom.
- (5) Before determining whether Condition 2 is met the Treasury must consult –
 - (a) the FSA, and
 - (b) the Bank of England.

- (6) Expressions used in this section have the same meaning as in the Companies Act 2006.”

60 Insert the following new Clause –

“Holding companies: supplemental

- (1) In the following provisions references to banks include references to holding companies –
- (a) section 10(1),
 - (b) section 13(3),
 - (c) section 16(1), and
 - (d) section 75(5)(a).
- (2) Where the Treasury take a bank’s holding company into temporary public ownership in reliance on section (*Holding companies: Temporary public ownership*) –
- (a) section 20(2) applies to (i) directors of the holding company, (ii) directors of the bank, and (iii) directors of a bank in the same group,
 - (b) section 25(2) applies as if references to a bank were references to a holding company,
 - (c) sections 27 to 29 apply as if references to a bank were references to a holding company,
 - (d) a share transfer may be made in respect of securities which were issued by the bank or by another bank which is or was in the same group; and a transfer –
 - (i) shall be made by onward share transfer order under section 28 or by reverse share transfer order under section 29 (in addition to any that may be made under those sections as applied by paragraph (c) above),
 - (ii) may be made under section 28 only in respect of securities held by (or for the benefit of) the holding company or a subsidiary undertaking of the holding company,
 - (iii) is not subject to section 28(4),
 - (iv) may be made under section 29 only in respect of securities held by a person of a kind listed in section 29(3)(b), and
 - (v) is not (otherwise) subject to section 29(3),
 - (e) section 45 applies as if –
 - (i) the reference to a bank in subsection (1) were a reference to a holding company, and
 - (ii) a reference to the bank in subsection (3) were a reference to the holding company, the bank and any other bank which is or was in the same group,
 - (f) sections 65 to 68 apply, with –
 - (i) references to the bank or the transferred bank taken as references to the bank, the holding company and any other bank which is or was in the same group, and
 - (ii) references to securities of the bank taken as including references to securities of the holding company (so that, in particular, sections 65(1)(a)(ii) and 68(1)(a) include references to the earlier transfer of securities issued by the holding company),

- (g) other provisions of this Act about share transfer orders apply with any necessary modifications,
 - (h) section 214B of the Financial Services and Markets Act 2000 applies (contribution to costs of special resolution regime - inserted by section 168 below), and
 - (i) the reference in section 214B(1)(b) to the bank, and later references in the section, are treated as including references to any other bank which is also a subsidiary undertaking of the holding company (but not to the holding company itself).
- (3) A reference in this Act or another enactment to a share transfer order in respect of securities issued by a bank includes (so far as the context permits) a reference to a share transfer order in respect of securities issued by a holding company.
- (4) In so far as sections 47 and 60 apply in relation to orders treated as property transfer instruments by virtue of section 45(5)(b) or 46(5)(b) (including those sections as applied by virtue of subsection (2) above) the reference in section 47(1) to the property of a bank includes a reference to the property of a holding company and of any other bank which is or was in the same group.
- (5) Expressions used in this section have the same meaning as in the Companies Act 2006.
- (6) A reference to two banks being in the same group is a reference to their being group undertakings in respect of each other.”

Clause 98

- 61** Page 50, line 4, at end insert “or under section 141(2) or 142(2) of the Insolvency Act 1986 (as applied by section 100 below)”

Clause 100

- 62** Page 52, line 22, at end insert –

“Section 141	Liquidation Committee (England and Wales)	The application of section 141 is subject to – <ul style="list-style-type: none"> (a) sections 97, 98 and 106 of this Act, (b) rules under section 411 (as applied by section 122 of this Act) which may, in particular, adapt section 141 to reflect (i) the fact that the bank liquidator is appointed by the court and (ii) the possibility of calling creditors’ meetings under other provisions, and (c) the omission of references to the official receiver.
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Section 142	Liquidation Committee (Scotland)	The application of section 142 is subject to— (a) sections 97, 98 and 106 of this Act, (b) rules under section 411 (as applied by section 122 of this Act) which may, in particular, adapt section 142 to reflect (i) the fact that the bank liquidator is appointed by the court and (ii) the possibility of calling creditors' meetings under other provisions, and (c) the omission of references to the official receiver.”
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63 Page 54, line 6, after “*applied*” insert “*to a bank liquidator*”

64 Page 54, line 7, at end insert—

		“Section 172(1), (2) and (5) are applied to a provisional bank liquidator.”
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65 Page 56, line 28, in column 3 insert—

“Anything done by the bank in connection with the exercise of a stabilisation power under Part 1 of this Act is not a gratuitous alienation for the purpose of section 242 or any other rule of law.”

66 Page 56, line 30, in column 3 insert—

“Action taken by the bank in connection with the exercise of a stabilisation power under Part 1 of this Act does not amount to an unfair preference for the purpose of section 243 or any other rule of law.”

Clause 135

67 Page 69, line 18, after “supplemental” insert “or reverse”

Clause 142

68 Page 77, line 49, at end insert—

“(h) Section 172(1), (2) and (5) apply to a provisional bank administrator.”

69 Page 78, line 31, at end insert—

“Section 179	Disclaimer leaseholds	of	
Section 180	Land subject to rentcharge		
Section 181	Disclaimer: powers of court		
Section 182	Leaseholds”		

Clause 149

- 70 Page 82, line 36, after “bank” insert “(or a bank’s holding company)”
- 71 Page 82, line 38, after “bank” insert “(or from another bank which is or was in the same group as the bank)”

Clause 188

- 72 Page 97, line 37, at end insert –
- “(3) Before giving a direction the Bank must notify the Treasury.
- (4) The Treasury may by order confer immunity from liability in damages in respect of action or inaction in accordance with a direction.
- (5) An 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.
- (6) An order –
- (a) shall be made by statutory instrument, and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Clause 195

- 73 Page 100, line 10, at end insert –
- “(3) The Bank must prepare a statement of the principles which it will apply in determining –
- (a) whether to impose a penalty, and
- (b) the amount of a penalty.
- (4) The Bank must –
- (a) publish the statement on its internet website,
- (b) send a copy to the Treasury,
- (c) review the statement from time to time and revise it if necessary (and paragraphs (a) and (b) apply to a revision), and
- (d) in applying the statement to a compliance failure, apply the version in force when the failure occurred.”

Clause 219

- 74 Page 109, line 16, at end insert –

- “(3) Banknote regulations must establish a method for determining the maximum amount of a penalty.”

Clause 225

- 75 Page 110, leave out line 32
- 76 Page 110, line 33, at beginning insert “by the Treasury”
- 77 Page 110, line 34, at beginning insert “by the Treasury, or by the Secretary of State with the consent of the Treasury,”
- 78 Page 110, line 37, at beginning insert “by the Treasury”
- 79 Page 110, line 37, at end insert –
- “(1A) For the purpose of subsection (1)(b) expenditure is incurred in respect of financial assistance in respect of banks or other financial institutions if it is incurred in respect of an activity, transaction or arrangement, or class of activity, transaction or arrangement, which is expected to facilitate any part of the business of one or more banks or other financial institutions; and for that purpose it does not matter –
- (a) whether or not that is the sole or principal expected effect of the activity, transaction or arrangement, or
 - (b) whether the sole or principal motive for the activity, transaction or arrangement is (i) its effect on banks or other financial institutions, (ii) its effect on the economy as a whole, (iii) its effect on a particular industry or sector of the economy, or (iv) its effect on actual or potential customers of banks or other financial institutions.”
- 80 Page 110, line 38, at end insert “(and an order under that section may restrict or expand the effect of subsection (1A)).”
- 81 Page 111, line 3, at end insert –
- “(4) Expenditure which could be paid out of money provided by Parliament under subsection (1) shall be charged on and paid out of the Consolidated Fund if the Treasury are satisfied that the need for the expenditure is too urgent to permit arrangements to be made for the provision of money by Parliament.
- (5) Where money is paid in reliance on subsection (4) the Treasury shall as soon as is reasonably practicable lay a report before Parliament specifying the amount paid (but not the identity of the institution to or in respect of which it is paid).
- (6) If the Treasury think it necessary on public interest grounds, they may delay or dispense with a report under subsection (5).”

Clause 226

- 82 Page 111, line 17, at end insert –
- “(6) Where money is paid in reliance on subsection (1) the Treasury shall as soon as is reasonably practicable lay a report before Parliament specifying the amount paid (but not the identity of the institution to or in respect of which it is paid).
- (7) If the Treasury think it necessary on public interest grounds, they may delay or dispense with a report under subsection (6).”

After Clause 226

83 Insert the following new Clause –

“Transparency: financial assistance

- (1) The Treasury shall prepare and lay before each House of Parliament a quarterly report in respect of –
 - (a) financial assistance paid out under section 225(1);
 - (b) loans made under section 226;
 - (c) guarantees, indemnities or similar arrangements which may result in amounts being paid out under section 225(1).
- (2) The Treasury shall ensure that the report contains sufficient detail to enable Parliament to understand the actual and potential commitment of public money to financial assistance and the Treasury may summarise the individual items which fall to be disclosed in a report in whatever way they consider appropriate in order to assist Parliament in that regard.
- (3) If the Treasury consider that certain information should not be disclosed in a report on public interest grounds, a report may omit that information until such a time as the Treasury consider that the public interest is no longer affected.”

After Clause 227

84 Insert the following new Clause –

“Investment banks: Definition

- (1) In this group of sections “investment bank” means an institution which satisfies the following conditions.
- (2) Condition 1 is that the institution has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on the regulated activity of –
 - (a) safeguarding and administering investments,
 - (b) dealing in investments as principal, or
 - (c) dealing in investments as agent.
- (3) Condition 2 is that the institution holds client assets.
- (4) In this group of sections “client assets” means assets which an institution has undertaken to hold for a client (whether or not on trust and whether or not the undertaking has been complied with).
- (5) Condition 3 is that the institution is incorporated in, or formed under the law of any part of, the United Kingdom.
- (6) The Treasury may by order –
 - (a) provide that a specified class of institution, which has a permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity, is to be treated as an investment bank for the purpose of this group of sections;
 - (b) provide that a specified class of institution is not to be treated as an investment bank for the purpose of this group of sections;

- (c) provide that assets of a specified kind, or held in specified circumstances, are to be or not to be treated as client assets for the purpose of this group of sections;
- (d) amend a provision of this section in consequence of provision under paragraph (a), (b) or (c)."

85 Insert the following new Clause –

“Investment banks: Insolvency regulations

- (1) The Treasury may by regulations (“Investment bank insolvency regulations”) –
 - (a) modify the law of insolvency in its application to investment banks;
 - (b) establish a new procedure for investment banks where –
 - (i) they are unable, or are likely to become unable, to pay their debts (within the meaning of section 90(4)), or
 - (ii) their winding up would be fair (within the meaning of section 90(8)).
- (2) Investment bank insolvency regulations may, in particular –
 - (a) apply or replicate (with or without modifications) or make provision similar to provision made by or under the Insolvency Act 1986 or Part 2 or 3 of this Act;
 - (b) establish a new procedure either (i) to operate for investment banks in place of liquidation or administration (under the Insolvency Act 1986), or (ii) to operate alongside liquidation or administration in respect of a particular part of the business or affairs of investment banks.
- (3) In making investment bank insolvency regulations the Treasury shall have regard to the desirability of –
 - (a) identifying, protecting, and facilitating the return of, client assets,
 - (b) protecting creditors’ rights,
 - (c) ensuring certainty for investment banks, creditors, clients, liquidators and administrators,
 - (d) minimising the disruption of business and markets, and
 - (e) maximising the efficiency and effectiveness of the financial services industry in the United Kingdom.
- (4) A reference to returning client assets includes a reference to –
 - (a) transferring assets to another institution, and
 - (b) returning or transferring assets equivalent to those which an institution undertook to hold for clients.”

86 Insert the following new Clause –

“Investment banks: Regulations: details

- (1) Investment bank insolvency regulations may provide for a procedure to be instituted –
 - (a) by a court, or
 - (b) by the action of one or more specified classes of person.
- (2) Investment bank insolvency regulations may –

- (a) confer functions on persons appointed in accordance with the regulations (which may, in particular, (i) be similar to the functions of a liquidator or administrator under the Insolvency Act 1986, or (ii) involve acting as a trustee of client assets), and
 - (b) specify objectives to be pursued by a person appointed in accordance with the regulations.
- (3) Investment bank insolvency regulations may make the application of a provision depend –
 - (a) on whether an investment bank is, or is likely to become, unable to pay its debts,
 - (b) on whether the winding up of an investment bank would be fair, or
 - (c) partly on those and partly on other considerations.
- (4) Investment bank insolvency regulations may make provision about the relationship between a procedure established by the regulations and –
 - (a) liquidation or administration under the Insolvency Act 1986,
 - (b) bank insolvency or bank administration under Part 2 or 3 of this Act, and
 - (c) provision made by or under any other enactment in connection with insolvency.
- (5) Regulations by virtue of subsection (4) may, in particular –
 - (a) include provision for temporary or permanent moratoria;
 - (b) amend an enactment.
- (6) Investment bank insolvency regulations may include provision –
 - (a) establishing a mechanism for determining which assets are client assets (subject to section (*Investment banks: Definition*));
 - (b) establishing a mechanism for determining that assets are to be, or not to be, treated as client assets (subject to section (*Investment banks: Definition*));
 - (c) about the treatment of client assets;
 - (d) about the treatment of unsettled transactions (and related collateral);
 - (e) for the transfer to another financial institution of assets or transactions;
 - (f) for the creation or enforcement of rights (including rights that take preference over creditors' rights) in respect of client assets or other assets;
 - (g) indemnifying a person who is exercising or purporting to exercise functions under or by virtue of the regulations;
 - (h) for recovery of assets transferred in error.
- (7) Provision may be included under subsection (6)(f) only to the extent that the Treasury think it necessary having regard to the desirability of protecting both –
 - (a) client assets, and
 - (b) creditors' rights.
- (8) Investment bank insolvency regulations may confer functions on –
 - (a) a court or tribunal,
 - (b) the Financial Services Authority,

- (c) the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000),
 - (d) the scheme manager of that Scheme, and
 - (e) any other specified person.
- (9) Investment bank insolvency regulations may include provision about institutions that are or were group undertakings (within the meaning of section 1161(5) of the Companies Act 2006) of an investment bank.
- (10) Investment bank insolvency regulations may replicate or apply, with or without modifications, a power to make procedural rules.
- (11) Investment bank insolvency regulations may include provision for assigning or apportioning responsibility for the cost of the application of a procedure established or modified by the regulations.”

87 Insert the following new Clause –

“Investment banks: Regulations: procedure

- (1) Investment bank insolvency regulations shall be made by statutory instrument.
- (2) Investment bank insolvency regulations may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (3) The Treasury must consult before laying draft investment bank insolvency regulations before Parliament.
- (4) If the power to make investment bank insolvency regulations has not been exercised before the end of the period of 2 years beginning with the date on which this Act is passed, it lapses.
- (5) An order under section (*Investment banks: Definition*)(6) –
 - (a) shall be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

88 Insert the following new Clause –

“Review

- (1) The Treasury shall arrange for a review of the effect of any investment bank insolvency regulations.
- (2) The review must be completed during the period of 2 years beginning with the date on which the regulations come into force.
- (3) The Treasury shall appoint one or more persons to conduct the review; and a person appointed must have expertise in connection with the law of insolvency or financial services.
- (4) The review must consider, in particular –
 - (a) how far the regulations are achieving the objectives specified in section (*Investment banks: Insolvency regulations*)(3), and
 - (b) whether the regulations should continue to have effect.
- (5) The review must result in a report to the Treasury.

- (6) The Treasury shall lay a copy of the report before Parliament.
- (7) If a review recommends further reviews –
 - (a) the Treasury may arrange for the further reviews, and
 - (b) subsections (3) to (6) (and this subsection) shall apply to them.”

89 Insert the following new Clause –

“Banking (Special Provisions) Act 2008: Compensation: valuer

Without prejudice to the generality of section 12 of the Banking (Special Provisions) Act 2008 (consequential and supplementary provision), it is declared that the power under section 9 of that Act to make provision for the appointment of a valuer includes power to replicate, or to make provision of a kind that may be made under, section 55(1) to (3) of this Act.”

Clause 228

90 Page 111, line 33, at end insert –

“(1A) In pursuing the Financial Stability Objective the Bank shall aim to work with other relevant bodies (including the Treasury and the Financial Services Authority).”

91 Page 112, line 32, after “interest” insert “(including any reasonably likely future interest)”

92 Page 112, line 33, leave out “with the Bank”

93 Page 112, leave out lines 41 to 44

Clause 246

94 Page 120, line 37, at end insert “(in new terms).”

Clause 249

95 Page 121, line 36, leave out “Negative resolution” and insert “Draft affirmative resolution”

96 Page 123, line 6, at end insert –

“188	Bank of England directions: immunity	Negative resolution”
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97 Page 124, line 13, at end insert “(in new terms).”

LORDS AMENDMENTS TO THE
BANKING BILL

*Ordered, by The House of Commons,
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