



Bank of England and Financial Services Act 2016

2016 CHAPTER 14

PART 2

FINANCIAL SERVICES

Information about resolution planning

36 Duty of Bank to provide information to Treasury

- (1) The Financial Services Act 2012 is amended as follows.
- (2) Before section 58 insert—

“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,

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- (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

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- (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—

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- (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.”

(3) In section 65 (memorandum of understanding)—

(a) in subsection (1), after “in relation to” insert—

“(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)”;

(b) in subsection (2), at the beginning insert “For the purposes of subsection (1) (b),”;

(c) in the heading, after “understanding:” insert “resolution planning and”.

(4) In section 67 (interpretation), after subsection (5) insert—

“(6) Group entity” has the same meaning as in the Bank Recovery and Resolution (No. 2) Order 2014 (S.I. 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.”

Commencement Information

II S. 36 in force at 6.7.2016 by [S.I. 2016/627](#), [reg. 2\(1\)\(aa\)](#)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2019/1136 by [S.I. 2020/929 reg. 2](#)