Financial Services
(Banking Reform) Act 2013

CHAPTER 33

FINANCIAL SERVICES (BANKING REFORM) ACT 2013

PART 1
RING-FENCING

Ring-fencing
1 Objectives of Prudential Regulation Authority
2 Modification of objectives of Financial Conduct Authority
3 Amendment of PRA power of direction
4 Ring-fencing of certain activities
5 PRA annual report
6 Ring-fencing transfer schemes
7 Building societies: power to make provision about ring-fencing

Reviews
8 Independent review of operation of legislation relating to ring-fencing
9 PRA review of proprietary trading
10 Independent review of proprietary trading
11 Reviews of proprietary trading: interpretation
12 Right to obtain documents and information

PART 2
DEPOSITOR PREFERENCE AND THE FINANCIAL SERVICES COMPENSATION SCHEME
Depositor preference

13 Preferential debts: Great Britain

Financial Services Compensation Scheme

14 Discharge of functions by the scheme manager
15 Power to require information from scheme manager
16 Scheme manager: appointment of accounting officer

PART 3
BAIL-IN STABILISATION OPTION

17 Bail-in stabilisation option

PART 4
CONDUCT OF PERSONS WORKING IN FINANCIAL SERVICES SECTOR

Amendments of FSMA 2000

18 Functions for which approval is required
19 Senior management functions
20 Statements of responsibilities
21 Vetting by relevant authorised persons of candidates for approval
22 Determination of applications for approval
23 Power to give approval subject to conditions or for limited period
24 Changes in responsibilities of senior managers
25 Duty to notify regulator of grounds for withdrawal of approval
26 Variation of approval
27 Statement of policy
28 Extension of limitation periods for imposing sanctions
29 Certification of employees by relevant authorised persons
30 Rules of conduct
31 Requirement to notify regulator of disciplinary action
32 Definition of “misconduct”
33 Meaning of “relevant authorised person”
34 Recording information about senior managers
35 Consequential amendments relating to Part 4

Offence

36 Offence relating to a decision causing a financial institution to fail
37 Section 36: interpretation
38 Institution of proceedings

PART 5
REGULATION OF PAYMENT SYSTEMS

Overview

39 Overview

The Payment Systems Regulator

40 The Payment Systems Regulator
“Payment system” etc

41 Meaning of “payment system”
42 Participants in payment systems etc

Designation as a regulated payment system

43 Designation orders
44 Designation criteria
45 Procedure
46 Amendment of designation order
47 Revocation of designation orders
48 Publication

General duties of Regulator

49 Regulator’s general duties in relation to payment systems
50 The competition objective
51 The innovation objective
52 The service-user objective
53 Regulatory principles

Regulatory and competition functions

54 Directions
55 System rules
56 Power to require granting of access to payment systems
57 Variation of agreements relating to payment systems
58 Power to require disposal of interest in payment system
59 The Regulator’s functions under Part 4 of the Enterprise Act 2002
60 Restrictions on exercise of functions under Part 4 of the Enterprise Act 2002
61 The Regulator’s functions under the Competition Act 1998
62 Duty to consider exercise of powers under Competition Act 1998
63 Provision of information and assistance to a CMA group
64 Function of keeping markets under review
65 Exclusion of general duties
66 Concurrent competition powers: supplementary provision
67 Amendments relating to Regulator’s competition powers

Complaints

68 Complaints by representative bodies
69 Response by Regulator
70 Complaints: guidance

Enforcement and appeals

71 Meaning of “compliance failure”
72 Publication of compliance failures etc
73 Penalties
74 Warning notices
75 Injunctions
76 Appeals: general
77 Appeals to Competition Appeal Tribunal
78 Appeals in relation to penalties
### 79 Appeals to Competition and Markets Authority

### 80 Enforcement of requirement to dispose of interest in payment system

#### Information and investigation powers

- **81** Power to obtain information or documents
- **82** Reports by skilled persons
- **83** Appointment of persons to conduct investigations
- **84** Investigations: general
- **85** Powers of persons appointed under section 83
- **86** Information and documents: supplemental provisions
- **87** Admissibility of statements made to investigators
- **88** Entry of premises under warrant
- **89** Retention of documents taken under section 88
- **90** Enforcement of information and investigation powers

#### Disclosure of information

- **91** Restrictions on disclosure of confidential information
- **92** Exemptions from section 91
- **93** Offences relating to disclosure of confidential information
- **94** Information received from Bank of England
- **95** Disclosure of information by Bank to Regulator

#### Guidance

- **96** Guidance

#### Reports

- **97** Reports

#### Relationship with other regulators

- **98** Duty of regulators to ensure co-ordinated exercise of functions
- **99** Memorandum of understanding
- **100** Power of Bank to require Regulator to refrain from specified action
- **101** Power of FCA to require Regulator to refrain from specified action
- **102** Power of PRA to require Regulator to refrain from specified action

#### Consultation, accountability and oversight

- **103** Regulator’s general duty to consult
- **104** Consultation in relation to generally applicable requirements
- **105** Independent inquiries
- **106** Investigations into regulatory failure
- **107** Competition scrutiny

#### Miscellaneous and supplemental

- **108** Relationship with Part 8 of the Payment Services Regulations 2009
- **109** Exemption from liability in damages for FCA and PRA
- **110** Interpretation of Part

### PART 6

**SPECIAL ADMINISTRATION FOR OPERATORS OF CERTAIN INFRASTRUCTURE SYSTEMS**
Financial Services (Banking Reform) Act 2013 (c. 33)

Introductory

111 Financial market infrastructure administration
112 Interpretation: infrastructure companies
113 Interpretation: other expressions

**FMI administration orders**

114 FMI administration orders
115 Objective of FMI administration
116 Application for FMI administration order
117 Powers of court
118 FMI administrators
119 Continuity of supply
120 Power to direct FMI administrator
121 Conduct of administration, transfer schemes etc.

**Restrictions on other insolvency procedures**

122 Restriction on winding-up orders and voluntary winding up
123 Restriction on making of ordinary administration orders
124 Restriction on enforcement of security

**Financial support for companies in FMI administration**

125 Loans
126 Indemnities

**Interpretation**

127 Interpretation of Part

**Application of Part to Northern Ireland**

128 Northern Ireland

**PART 7**

**MISCELLANEOUS**

**Competition**

129 Functions of FCA under competition legislation
130 Competition as a secondary objective of the PRA

**Consumers**

131 Duty of FCA to make rules restricting charges for high-cost short-term credit
132 Role of FCA Consumer Panel in relation to PRA

**Parent undertakings**

133 Power of FCA and PRA to make rules applying to parent undertakings

**Meetings with auditors**

134 Duty to meet auditors of certain institutions
Fees to meet Treasury expenditure

135 Fees to meet Treasury expenditure relating to international organisations

Parliamentary control of statutory instruments under FSMA 2000

136 Amendments of section 429 of FSMA 2000

Bank of England

137 Accounts of Bank of England and its wholly-owned subsidiaries

Building societies

138 Building societies

Claims management services

139 Power to impose penalties on persons providing claims management services

140 Recovery of expenditure incurred by Office for Legal Complaints

Minor amendments

141 Minor amendments

PART 8

FINAL PROVISIONS

142 Orders and regulations: general

143 Orders and regulations: Parliamentary control

144 Interpretation

145 Power to make further consequential amendments

146 Transitional provisions and savings

147 Extent

148 Commencement and short title

SCHEDULES

SCHEDULE 1 — Ring-fencing transfer schemes

1 Part 7 of FSMA 2000 (control of business transfer schemes)...

2 For “the authorised person concerned”, wherever occurring in Part 7...

3 (1) Section 103A (meaning of “the appropriate regulator”) is amended...

4 In section 106 (banking business transfer schemes), at the end...

5 After section 106A insert— Ring-fencing transfer scheme (1) A scheme is a ring-fencing transfer scheme if it—...

6 (1) Section 107 (application for order sanctioning transfer scheme) is...

7 For the heading to section 109 substitute “Scheme reports: insurance...

8 After section 109 insert— Scheme reports: ring-fencing transfer schemes (1) An application under section 106B in respect of a...

9 (1) Section 110 (right to participate in proceedings) is amended...

10 (1) Section 111 (sanction of court for business transfer schemes)...

11 In section 112 (effect of order sanctioning business transfer scheme)....

12 In section 112A (rights to terminate etc.), in subsection (1)....

13 In Schedule 12 (transfer schemes: certificates) after Part 2A insert—....
SCHEDULE 2 — Bail-in stabilisation option

PART 1 — AMENDMENTS OF BANKING ACT 2009

1 The Banking Act 2009 is amended as follows.
2 New stabilisation option: bail-in
3 After section 8 insert— Specific condition: bail-in (1) The Bank of
   England may exercise a stabilisation power...
4 Further provision about the bail-in option
5 Transfers of property
6 Compensation
7 Groups
8 Banks regulated by the Financial Conduct Authority
9 Recognised central counterparties
10 Insolvency proceedings
11 State aid
12 Other amendments of the Act
13 In section 13 (temporary public ownership), in subsection (1), for...
14 In section 17 (share transfers: effect)— (a) in subsection (1),...
15 In section 18 (share transfers: continuity), after subsection (5) insert—...
16 In section 44 (reverse property transfer)— (a) in subsection (2),...
17 In section 63 (general continuity obligation: property transfers), in
   subsection...
18 In section 66 (general continuity obligation: share transfers)—
19 In section 67 (special continuity obligation: share transfers), in
   subsection...
20 In section 68 (continuity obligations: onward share transfers), in
   subsection...
21 In section 71 (pensions), in subsection (1)—
22 In section 72 (enforcement), in subsection (1)—
23 In section 73 (disputes), in subsection (1)—
24 In section 74 (tax), in subsection (6), for “or 45”...
25 After section 80 insert— Transfer for bail-in purposes: report (1) This
   section applies where the Bank of England makes...
26 In section 81A (accounting information to be included in reports...
27 In section 85 (temporary public ownership), in subsection (1), for...
28 In section 136 (overview), in the Table in subsection (3),...
29 After section 152 insert— Property transfer from transferred institution
   (1) This section applies where the Bank of England—
30 In section 220 (insolvency etc), after subsection (4) insert—
31 In section 259 (statutory instruments)— (a) in the Table in...
32 In section 261 (index of defined terms), in the Table,...

PART 2 — MODIFICATION OF INVESTMENT BANK SPECIAL
ADMINISTRATION REGULATIONS 2011

33 (1) This paragraph modifies the application of the Investment Bank...

SCHEDULE 3 — Consequential amendments relating to Part 4

1 Financial Services and Markets Act 2000
2 (1) Section 59A of FSMA 2000 (specifying functions as controlled...
3 (1) Section 63 of FSMA 2000 (withdrawal of approval) is...
4 In section 63A of FSMA 2000 (power to impose penalties),...
5 (1) Section 66 of FSMA 2000 (disciplinary powers) is amended...
6 (1) Section 67 of FSMA 2000 (disciplinary measures: procedure and...
7 In section 69 of FSMA 2000 (statement of policy), in...
8 In section 138A of FSMA 2000 (modification or waiver of...
9 In section 138D of FSMA 2000 (actions for damages), in...
10 In section 140A of FSMA 2000 (interpretation), in the definition...
11 In section 347 of FSMA 2000 (the record of authorised...
12 In section 387 of FSMA 2000 (warning notices), in subsection...
13 In section 388 of FSMA 2000 (decision notices), in subsection...
14 In section 395 of FSMA 2000 (supervisory notices), in subsection...
15 (1) Section 415B of FSMA 2000 (consultation in relation to...
16 In Schedule 1ZA to FSMA 2000 (the Financial Conduct Authority),...
17 In Schedule 1ZB to FSMA 2000 (the Prudential Regulation Authority),...
18 Financial Services Act 2012
19 (1) Section 85 of the Financial Services Act 2012 (relevant...

SCHEDULE 4 — The Payment Systems Regulator
1 Introductory
2 Constitution
3 Status
4 Budget
5 Arrangements for discharging functions
6 Annual plan
7 Annual report
8 Audit of accounts
9 Funding
10 Penalty receipts
11 (1) The Regulator must prepare and operate a scheme (“the...
12 (1) The scheme details must be published by the Regulator...
13 Records
14 Exemption from liability in damages
15 Freedom of information
16 Equality

SCHEDULE 5 — Procedure for appeals to the CMA
1 Functions of CMA to be discharged by group
2 (1) Schedule 4 to the Enterprise and Regulatory Reform Act...
3 Application for permission to bring appeal
4 Suspension of decision
5 Time limit for representations and observations by the Regulator
6 Consideration and determination of appeal by group
7 Time limits for determining appeal
8 Matters to be considered on appeal
9 Production of documents etc
10 Oral hearings
11 Written statements
12 Expert advice
13 Defaults in relation to evidence
14 (1) A person who wilfully alters, suppresses or destroys a...
15 Determination of appeal by CMA
16 Appeal rules
17 Costs
18 Interpretation

SCHEDULE 6 — Conduct of FMI administration
1 The following provisions of this Schedule provide for—
The provisions set out in the Tables apply in relation...
The modifications are that—(a) a reference to the administrator...
Powers conferred by this Part of this Act and by...
A reference in an enactment or other document to anything...
(1) The Treasury may by order amend this Schedule so...

SCHEDULE 7 — Financial market infrastructure transfer schemes

1 Application of Schedule
2 Interpretation of Schedule
3 FMI administrator to act on behalf of old company
4 Making of FMI transfer schemes
5 Provision that may be made by a scheme
6 Further provision about transfers
7 Effect of scheme
8 Subsequent modification of scheme
9 Provision relating to foreign property
10 Application of Schedule to transfers to subsidiaries

SCHEDULE 8 — Functions of FCA under competition legislation

PART 1 — AMENDMENTS OF FINANCIAL SERVICES AND MARKETS ACT 2000

1 Part 16A of FSMA 2000 (consumer protection and competition) is...
2 Omit section 234H (power of FCA to make request to...
3 After section 234H insert—The FCA’s functions under Part 4...
4 In section 31 of FSMA 2000 (power of PRA to...
5 In section 348 of FSMA 2000 (restrictions on disclosure of...
6 In section 354A of FSMA 2000 (FCA’s duty to co-operate...
7 (1) Schedule 1ZA to FSMA 2000 (the Financial Conduct Authority)... PART 2 — AMENDMENTS OF OTHER LEGISLATION

8 Company Directors Disqualification Act 1986
9 Competition Act 1998
10 Enterprise Act 2002
11 Enterprise and Regulatory Reform Act 2013
12 In Schedule 4 to the Enterprise and Regulatory Reform Act...

SCHEDULE 9 — Building societies

1 Introductory
2 Exclusion of small business deposits from funding limit
3 (1) In article 3 of the Building Societies Act 1986...
4 Ability to create floating charges
5 Annual business statements
6 Summary financial statements
7 In consequence of the amendments made by paragraph 6—
8 Transfers of business: distributions and share rights
9 Methods of communicating with members etc
10 In the following provisions, omit “, in a manner agreed...”
11 In section 81(3B)(c), omit “, in a manner agreed for...
12 (1) Schedule 2 is amended as follows.
13 In paragraphs 3(2B)(c) and 9(2B)(c) of Schedule 8A, omit “in...
14 (1) Schedule 11 is amended as follows.
15 Financial year
16 After section 117 insert— Alteration of financial year (1) A building society may by notice given to the...
17 In Schedule 20 (transitional and saving provisions), omit paragraph 16...
18 The amendments made by paragraphs 15 to 17 have effect...

SCHEDULE 10 — Minor amendments
1 Companies Act 1985
2 Financial Services and Markets Act 2000
3 (1) Part 25 of FSMA 2000 (injunctions and restitution) is...
4 (1) In Schedule 1ZA to FSMA 2000 (the Financial Conduct...
5 In Schedule 17A to FSMA 2000 (further provision in relation...
6 Income Tax Act 2007
7 Banking Act 2009
8 In section 191 of the Banking Act 2009 (directions), in...
9 Financial Services Act 2012
10 (1) Section 85 of the Financial Services Act 2012 (relevant...