

FINANCIAL SERVICES (BANKING REFORM) ACT 2013

EXPLANATORY NOTES

COMMENTARY

Part 7 – Miscellaneous

Parent undertakings

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

303. *Section 133(1)* inserts new sections 192JA and 192JB into FSMA, giving the PRA and the FCA powers to make certain rules relating to parent undertakings which are not themselves authorised persons. Under *new section 192JA*, the regulators are able to make rules applying to any company incorporated in the UK which is a parent undertaking of a ring-fenced body. This will include not only the immediate holding company of the ring-fenced body, but also any ultimate holding company of the ring-fenced body. The regulators are given the power to subject such parent undertakings to any rules which the regulators consider are necessary or expedient in order to achieve the group ring-fencing purposes, set out in new section 142H(4), which are designed to ensure that the ring-fenced body is able to operate independently of the other companies in its group.
304. *New section 192JB* gives the regulators a further power to make rules in relation to “qualifying parent undertakings”, as defined in section 192B of FSMA (which comprise the parent undertakings of UK companies authorised by the PRA, UK investment firms, or recognised investment exchanges where the parent undertaking is itself a UK company or has a place of business in the UK). The regulators are able to make rules requiring qualifying parent undertakings to make any arrangements if the regulators consider that those arrangements might facilitate the exercise of the resolution powers in Parts 1 to 3 of the Banking Act 2009 (or any similar powers exercisable by overseas authorities).
305. *Section 133(2)* amends section 192K of FSMA to ensure that the regulators’ powers to impose a penalty or issue a statement of censure where a qualifying parent undertaking has contravened rules made by the regulators under section 192J also apply if the qualifying parent undertaking has breached rules made under new section 192JB, or if a parent undertaking of a ring-fenced body has breached rules made under new section 192JA.