



# Financial Services (Banking Reform) Act 2013

## 2013 CHAPTER 33

### PART 7

#### MISCELLANEOUS

#### *Parent undertakings*

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

(1) After section 192J of FSMA 2000 insert—

*“Rules applying to parent undertakings of ring-fenced bodies*

#### **192JA Rules applying to parent undertakings of ring-fenced bodies**

- (1) The appropriate regulator may make such rules applying to bodies corporate falling within subsection (2) as appear to the regulator to be necessary or expedient for the group ring-fencing purposes.
- (2) A body corporate falls within this subsection if—
  - (a) it is incorporated in the United Kingdom or has a place of business in the United Kingdom,
  - (b) it is a parent undertaking of a ring-fenced body, and
  - (c) it is not itself an authorised person.
- (3) The “group ring-fencing purposes” are the purposes set out in section 142H(4).
- (4) “The appropriate regulator” means—
  - (a) in relation to the parent undertaking of a ring-fenced body that is a PRA-authorized person, the PRA;

- (b) in any other case, the FCA.

*Rules requiring parent undertakings to facilitate resolution*

**192JB Rules requiring parent undertakings to facilitate resolution**

- (1) The appropriate regulator may make rules requiring a qualifying parent undertaking to make arrangements that would in the opinion of the regulator allow or facilitate the exercise of the resolution powers in relation to the qualifying parent undertaking or any of its subsidiary undertakings in the event of a situation arising where all or part of the business of the parent undertaking or the subsidiary undertaking encounters or is likely to encounter financial difficulties.
- (2) The “resolution powers” are—
- (a) the powers conferred on the Treasury and the Bank of England by or under Parts 1 to 3 of the Banking Act 2009, and
  - (b) any similar powers exercisable by an authority outside the United Kingdom.
- (3) The arrangements that may be required include arrangements relating to—
- (a) the issue of debt instruments by the parent undertaking;
  - (b) the provision to a subsidiary undertaking (“S”) or a transferee by the parent undertaking, or by any other subsidiary undertaking of the parent undertaking, of such services and facilities as would be required to enable S or the transferee to operate the business, or part of the business, effectively.
- (4) In subsection (3)(b) “transferee” means a person to whom all or part of the business of the parent undertaking or the subsidiary undertaking could be transferred as a result of the exercise of the resolution powers.
- (5) “Debt instrument” has the same meaning as in section 142Y.
- (6) “The appropriate regulator” means—
- (a) where the subsidiary undertakings of the qualifying parent undertaking include a ring-fenced body that is a PRA-authorized person, the PRA;
  - (b) where the subsidiary undertakings of the qualifying parent undertaking include one or more PRA-authorized persons but do not include any authorised person that is not a PRA-authorized person, the PRA;
  - (c) where the subsidiary undertakings of the qualifying parent undertaking do not include any PRA-authorized person, the FCA;
  - (d) in any other case, the PRA or the FCA.”
- (2) In section 192K of FSMA 2000 (power to impose penalty or issue censure)—
- (a) in subsection (1), after “section 192J” insert “or 192JB”, and
  - (b) after that subsection insert—
- “(1A) This section also applies if a regulator is satisfied that a person (“P”) who is or has been a parent undertaking of a ring-fenced body

has contravened a provision of rules made by that regulator under section 192JA.”