



Financial Services (Banking Reform) Act 2013

2013 CHAPTER 33

PART 4

CONDUCT OF PERSONS WORKING IN FINANCIAL SERVICES SECTOR

Offence

37 Section 36: interpretation

- (1) This section has effect for the interpretation of section 36.
- (2) “Financial institution” means a UK institution which—
 - (a) meets condition A or B, and
 - (b) is not an insurer or a credit union.
- (3) Condition A is that it has permission under Part 4A of FSMA 2000 to carry on the regulated activity of accepting deposits.
- (4) Condition B is that—
 - (a) it is for the purposes of FSMA 2000 an investment firm (see section 424A of that Act),
 - (b) it has permission under Part 4A of that Act to carry on the regulated activity of dealing in investments as principal, and
 - (c) when carried on by it, that activity is a PRA-regulated activity.
- (5) In subsection (2)—
 - (a) “UK institution” means an institution which is incorporated in, or formed under the law of any part of, the United Kingdom;
 - (b) “insurer” means an institution which is authorised under FSMA 2000 to carry on the regulated activity of effecting or carrying out contracts of insurance as principal;

Status: This is the original version (as it was originally enacted).

- (c) “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.
- (6) Subsections (3), (4) and (5)(b) are to be read in accordance with sections 22 and 22A of FSMA 2000, taken with Schedule 2 to that Act and any order under section 22.
- (7) A person is a “senior manager” in relation to a financial institution if, under an arrangement entered into by the institution, or by a contractor of the institution, in relation to the carrying on by the institution of a regulated activity, the person performs a senior management function.
- (8) A “senior management function” is a function designated as such—
 - (a) by the FCA under subsection (6A) of section 59 of FSMA 2000 (approval for particular arrangements), or
 - (b) by the PRA under subsection (6B) of that section.
- (9) A financial institution (“F”) is to be regarded as failing where—
 - (a) F enters insolvency,
 - (b) any of the stabilisation options in Part 1 of the Banking Act 2009 is achieved in relation to F, or
 - (c) F is taken for the purposes of the Financial Services Compensation Scheme to be unable, or likely to be unable, to satisfy claims against F.
- (10) In subsection (9)(a) “insolvency” includes—
 - (a) bankruptcy,
 - (b) liquidation,
 - (c) bank insolvency,
 - (d) administration,
 - (e) bank administration,
 - (f) receivership,
 - (g) a composition between F and F’s creditors, and
 - (h) a scheme of arrangement of F’s affairs.