
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under Part 9B of the Financial Services and Markets Act 2000 (c.8) (“FSMA”) which provides for the ring-fencing of core banking activities. Certain banks carrying on core banking activities will be required to be ring-fenced. These ring-fenced bodies will be subject to requirements intended to ensure that they are capable of carrying on the business of providing the core services related to the acceptance of deposits independently of other members in their group. These Regulations impose requirements in relation to the pension liabilities of ring-fenced bodies.

Regulation 2 requires that a ring-fenced body make arrangements to ensure it does not participate in multi-employer pension schemes, or have shared pension liabilities, with parties other than certain members of its group. A ring-fenced body may seek a court order releasing it from a shared liability arrangement on commercial terms where terms for its release cannot be agreed by the parties to the arrangement.

Regulation 3 empowers the trustees or managers of a multi-employer pension scheme in respect of which a ring-fenced body is an employer to modify the scheme, with the consent of the employers of that scheme, in order for the ring-fenced body to meet the requirement under regulation 2(2). Where the trustees or managers of a scheme unreasonably refuse to modify it, or any employers unreasonably refuse to consent to the modifications, the ring-fenced body may apply to the court for an order that the modification may be made without any step a trustee or manager would otherwise have to take or the employers’ consent.

Regulation 4 requires that where a ring-fenced body is party to a proposed corporate restructuring or other arrangement for the purposes of meeting its obligations as a ring-fenced body under FSMA, or proposes to make any arrangements in order to comply with the requirement in regulation 2(2), it must apply to the Pensions Regulator for a clearance statement in relation to its pension arrangements where the proposal is likely to be materially detrimental to them.

Regulation 5 provides for the applications which a ring-fenced body may make to the court in accordance with regulation 2(7) (release from a shared liability arrangement) and regulation 3(5) (modification of an existing pension scheme).

Regulation 6 provides that a breach of these Regulations is to be treated as a breach of a requirement imposed on the ring-fenced body by its regulator under FSMA.

Regulation 7 provides for the Prudential Regulation Authority to monitor compliance with these Regulations.

Regulation 8 makes transitional provision to apply regulations 3, 4 and 5 to any member of a group which is making preparations to ensure that a ring-fenced body in the group will meet ring-fencing requirements on and after 1st January 2019.

An Impact Assessment of the effect of these Regulations on the costs of business and the voluntary sector has been prepared and is available on HM Treasury’s website (www.gov.uk/treasury) or from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is annexed to the Explanatory Memorandum for these Regulations.