



Bank of England Act 1998

1998 CHAPTER 11

[^{F1}PART 1A

FINANCIAL STABILITY

[^{F1}Directions by Financial Policy Committee

Textual Amendments

- F1** Pt. 1A inserted (24.1.2013 for the insertion of ss. 9I(2), 9L, 9N for specified purposes and for the insertion of s. 9ZA, 19.2.2013 for the insertion of s. 9B for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), ss. 4\(1\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(b\)\(c\)\(2\), Sch. Pts. 2, 3, 4](#); [S.I. 2013/423, art. 3, Sch.](#)

9H Directions to FCA or PRA requiring macro-prudential measures

- (1) The Financial Policy Committee may give a direction to the FCA or the PRA (“the regulator”) requiring the regulator to exercise its functions so as to ensure the implementation, by or in relation to a specified class of regulated persons, of a macro-prudential measure described in the direction.
- (2) “Regulated person” means—
 - (a) in relation to the FCA—
 - (i) an authorised person within the meaning of FSMA 2000,
 - (ii) a recognised investment exchange within the meaning of that Act, or
 - (iii) an EEA market operator as defined by section 312D of that Act;
 - (b) in relation to the PRA, a PRA-authorized person within the meaning of that Act.
- (3) “Macro-prudential measure” is to be read in accordance with section 9L.
- (4) The direction may relate to all regulated persons or to regulated persons of a specified description, but may not relate to a specified regulated person.

Status: Point in time view as at 24/01/2013.

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- (5) The direction—
 - (a) may refer to the opinion of the regulator or require or authorise the exercise of a discretion by the regulator;
 - (b) may be expressed to remain in force for a specified period or until revoked.
- (6) The direction may not require its provisions to be implemented by specified means or within a specified period, but may include recommendations as to the means to be used and the timing of implementation.
- (7) A recommendation made under subsection (6) may be expressed to be one to which section 9Q(3) (duty to comply or explain) applies.
- (8) The direction may not require the regulator to do anything that it has no power to do, but the existence of the direction is relevant to the exercise of any discretion conferred on the regulator.
- (9) The direction may specify particular matters to which the regulator is or is not to have regard in complying with the direction, but those matters must be specified in relation to all regulated persons or a class of regulated person rather than a specified regulated person.
- (10) The direction may refer to a publication issued by the FCA, the PRA, another body in the United Kingdom or an international organisation, as the publication has effect from time to time.

9I Compliance with directions under section 9H

- (1) The regulator must comply with a direction given to it under section 9H as soon as reasonably practicable.
- (2) An order under section 9L may, in relation to cases where the regulator is complying with a direction under section 9H, exclude or modify any procedural requirement that would otherwise apply under FSMA 2000 in relation to the exercise by the regulator of its functions in pursuance of the direction.
- (3) The regulator to which a direction under section 9H is given must give the Financial Policy Committee one or more reports on how it is complying or has complied with the direction.
- (4) The Financial Policy Committee may give directions to the regulator specifying the times by which reports required by subsection (3) must be given to the Committee.
- (5) “ Regulator ” has the same meaning as in section 9H.

9J Revocation of directions under section 9H

- (1) The Financial Policy Committee may at any time by notice to the regulator revoke a direction under section 9H.
- (2) A direction under section 9H is to be taken to be revoked if the measure to which it relates ceases to be a macro-prudential measure, but this is subject to any provision made under section 9L(4)(e).
- (3) The revocation of a direction under section 9H does not affect the validity of anything previously done in accordance with it.

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- (4) “Regulator” has the same meaning as in section 9H.

9K Further provisions about directions under section 9H

- (1) Each of the following must be in writing—
- (a) a direction under section 9H;
 - (b) a notice revoking such a direction;
 - (c) a report under section 9I(3).
- (2) The Financial Policy Committee must give the Treasury a copy of any direction under section 9H or any notice revoking such a direction.
- (3) The Treasury may, if they think fit, lay before Parliament a copy of a direction under section 9H or a notice revoking such a direction.
- (4) Where a direction under section 9H, or a notice revoking such a direction, is included in a record published under section 9U, the Treasury must, if they have not already done so, lay before Parliament a copy of the direction or notice in the form in which it is published in the record.

9L Macro-prudential measures

- (1) For the purposes of section 9H a “macro-prudential measure” is a measure prescribed by the Treasury by order.
- (2) Before making an order under this section, the Treasury must—
- (a) consult the Financial Policy Committee, or
 - (b) if the Treasury consider that the delay involved in consulting the Committee would be prejudicial to the stability of the UK financial system, consult the Governor of the Bank.
- (3) In prescribing a measure, the order must specify whether the measure is prescribed in relation to the FCA, the PRA, or both.
- (4) An order under this section—
- (a) may make different provision for different cases;
 - (b) may confer a discretion on the Financial Policy Committee, the FCA or the PRA;
 - (c) may refer to rules made by the FCA or the PRA;
 - (d) may refer to a publication issued by the FCA, the PRA, another body in the United Kingdom or an international organisation, as the publication has effect from time to time;
 - (e) may contain transitional provisions and savings relating to the coming into force of any provision of the order or to the ceasing to be in force of any temporary provision made by the order.

9M Statements of policy by Financial Policy Committee

- (1) In relation to each macro-prudential measure prescribed under section 9L, the Financial Policy Committee must prepare and maintain a written statement of the general policy that it proposes to follow in relation to the exercise of its power of direction under section 9H so far as it relates to that measure.

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- (2) The Committee may at any time alter or replace a statement maintained under this section.
- (3) The Bank must publish each statement maintained under this section.
- (4) Publication is to be in such manner as the Bank thinks fit.
- (5) Nothing in this section is to be regarded as preventing the Financial Policy Committee from exercising its power of direction under section 9H in relation to a macro-prudential measure, where it considers it necessary to do so by reason of urgency, before it has prepared a statement under this section in relation to that measure.

9N Parliamentary control of orders under section 9L

- (1) Except as provided by subsection (2), an order under section 9L is not to be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.
- (2) An order under section 9L may be made without a draft having been laid and approved as mentioned in subsection (1) if the order contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without a draft being so laid and approved.
- (3) An order under section 9L made in accordance with subsection (2)—
 - (a) must be laid before Parliament after being made, and
 - (b) ceases to have effect at the end of the relevant period unless before the end of that period the order is approved by a resolution of each House of Parliament (but without affecting anything done under the order or the power to make a new order).
- (4) The “relevant period” is a period of 28 days beginning with the day on which the order is made.
- (5) In reckoning the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than 4 days.]

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