

# **BANKING ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 5: Inter-Bank Payment Systems**

##### **Recognised systems**

##### *Section 184: Recognition order*

411. *Subsection (1)* gives the Treasury the power to designate an inter-bank payment system as a recognised system. Once a payment system is ‘recognised’, the Bank of England’s powers of formal regulatory oversight specified in this Part apply.
412. *Subsection (2)* provides that a recognition order must include as much detail as is reasonably practicable of the arrangements that constitute the inter-bank payment system.
413. *Subsection (3)* provides that a payment system operated solely by the Bank of England may not be recognised.

##### *Section 185: Recognition criteria*

414. *Subsection (1)* provides that the Treasury may make a recognition order only if it is satisfied that any deficiencies in the design of the inter-bank payment system, or any disruption of its operation, would be likely to threaten the stability of, or confidence in the UK financial system (consequences of a “systemic nature”) or could have serious consequences for business or other interests throughout the United Kingdom (“system-wide consequences”).
415. *Subsection (2)* stipulates the considerations that the Treasury must have regard to when deciding whether to make a recognition order in relation to an inter-bank payment system. These criteria include the volume and value of the transactions processed (or potentially processed) by the system (see *subsection (2)(a)*), the nature of these transactions (see *subsection (2)(b)*), the availability of alternative systems that could handle the transactions in the case of a system failure (see *subsection (2)(c)*), the relationship of the system with other systems (such as interdependence), (see *subsection (2)(d)*) and whether the Bank of England uses the system in its role as a monetary authority (as defined in section 244(2)(c)).

##### *Section 186: Procedure*

416. This section sets out the procedure for the making of recognition orders. In particular, the Treasury must first consult the Bank of England and the operator of the inter-bank payment system and consider representations made (see *subsection (1)*). It must also consult the FSA where the operator is or has applied to become a recognised investment exchange, a recognised clearing house or has, or has applied for permission under Part 4 of the Financial Services and Markets Act 2000 (see *subsection (2)*).

*These notes refer to the Banking Act 2009 (c.1)  
which received Royal Assent on 12 February 2009*

417. *Subsection (3)* provides that the Treasury may rely on information supplied to it by the Bank of England and the FSA to inform its consideration of whether to recognise a particular inter-bank payment system.

***Section 187: De-recognition***

418. *Subsection (1)* gives the Treasury the power to revoke a recognition order.
419. *Subsection (2)* provides that the Treasury must revoke a recognition order if the criteria under which recognition was made (section 185) are no longer met.
420. *Subsections (3) and (4)* set out the process involved in revoking a recognition order. This process involves the same consultation process as required for the making of a recognition order.
421. *Subsection (5)* ensures that if an operator of a recognised payment system requests that its recognition order made under this Part be revoked, the Treasury must consider the request.