



Financial Services Act 2010

2010 CHAPTER 28

Banking Act 2009

20 Services forming part of recognised inter-bank payment systems

In Part 5 of the Banking Act 2009 (inter-bank payment systems), after section 206 insert—

“206A Services forming part of recognised inter-bank payment systems

- (1) The Treasury may by order make provision applying any provision of this Part to persons who are service providers in relation to a recognised inter-bank payment system.
- (2) A person is a service provider in relation to a recognised inter-bank payment system if—
 - (a) the person provides services that form part of the arrangements constituting the system, and
 - (b) the person is specified as a person within paragraph (a) by the Treasury in the recognition order made in respect of the system.
- (3) Telecommunication or information technology services are examples of the kind of services that may fall within subsection (2)(a).
- (4) Before specifying persons under subsection (2)(b), the Treasury must—
 - (a) consult the Bank of England and the FSA,
 - (b) notify the operator of the system and the persons whom the Treasury proposes to specify, and
 - (c) consider any representations made.
- (5) The Treasury may not specify the Bank of England under subsection (2)(b).
- (6) Before making an order under subsection (1), the Treasury must consult—
 - (a) the Bank of England,
 - (b) the FSA, and

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(c) such other persons as the Treasury consider appropriate.

(7) An order under subsection (1)—

- (a) may modify any provision of this Part in its application to persons who are service providers in relation to a recognised inter-bank payment system;
- (b) may (but need not) take the form of textual amendment.

(8) An order under subsection (1)—

- (a) is to be made by statutory instrument, and
- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

21 Minor amendments of provision made by Banking Act 2009

(1) The Banking Act 2009 is amended as follows.

(2) After section 48 insert—

“48A Creation of liabilities

(1) The provision that may be made by a property transfer instrument or order in reliance on section 33(1)(b), 42(3)(b), 43(3)(b), 44(4)(c), 45(3)(b) or 46(3)(b) includes provision for the creation of liabilities.

(2) The provision may be framed by reference to an agreement which has been or is to be entered into, or anything else which has been or is to be done, by any person (including a person other than the person making the instrument or order).”

(3) In section 55 (independent valuer: supplemental), at the end insert—

“(10) But subsection (9)(b) does not apply if the order is contained in a statutory instrument that contains an order to which section 62 applies.”

(4) In section 56 (independent valuer: money)—

(a) in subsection (1), after paragraph (c) (but before the “and” at the end of it) insert—

“(ca) persons mentioned in section 54(4)(b),” and

(b) at the end insert—

“(6) But subsection (5)(b) does not apply if the order is contained in a statutory instrument that contains an order to which section 62 applies.”

(5) In section 84 (application of Part 1 to building societies), in the entry in the table relating to sections 49 to 62, in paragraph (c) of the third column, at the end insert “but the Treasury may make a third party compensation order”.

(6) In section 145(6) (bank administration: general powers, duties and effect), in table 1 of applied provisions (Schedule B1 to the Insolvency Act 1986), for the entry relating to paragraph 80 substitute—

“Para. 79	Termination: successful rescue	(a) Ignore sub-para. (2).
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(b) See section 153.”

(7) In section 153 (successful rescue), for subsections (2) and (3) substitute—

“(2) The bank administrator shall make an application under paragraph 79 of Schedule B1 to the Insolvency Act 1986 (court ending administration on achievement of objectives).

(3) A bank administrator who makes an application in accordance with subsection (2) must send a copy to the FSA.”

(8) In section 219(3A) of the Financial Services and Markets Act 2000 (which was inserted by section 176(6) of the Banking Act 2009)—

(a) after “a bank,” insert “ building society or credit union, ”, and

(b) for “the bank or the Bank of England” substitute “ the bank, building society or credit union, or the Bank of England, ”.

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