

FINANCIAL SERVICES (BANKING REFORM) ACT 2013

EXPLANATORY NOTES

COMMENTARY

Part 4 – Conduct of Persons Working in Financial Services Sector

Amendments of FSMA

Section 37: Section 36: interpretation

224. *Section 37* provides for the interpretation of the terms used in the offence. The effect of *subsections (1) to (6)* is that that the offence applies to senior managers in UK institutions which have permission to carry on the regulated activity of accepting deposits (other than insurers and credit unions) and to senior managers in UK investment firms that are authorised by the PRA. This means that the offence covers only the failure of banks, building societies and PRA-authorised investment firms which are incorporated in the UK or formed under the law of part of the UK.
225. *Subsection (7)* defines “senior manager” for the purpose of the offence, limiting it to individuals performing a function which has been designated as a senior management function by the FCA or the PRA. The FCA and the PRA are given power to designate senior management functions by section 59 of FSMA as amended by *section 18*.
226. *Subsections (9) and (10)* define when a relevant financial institution is to be regarded as having failed for the purposes of the offence.