

FINANCIAL SERVICES (BANKING REFORM) ACT 2013

EXPLANATORY NOTES

COMMENTARY

Part 7 – Miscellaneous

Final Provisions

Section 142: Orders and regulations: general

354. *Section 142* provides that any power of the Treasury, the Secretary of State or the Lord Chancellor to make an order or regulations under the Act is exercisable by statutory instrument. The only exception is that an order under section 43 designating a payment system as a regulated payment system is not to be a statutory instrument (*subsection (2)*). *Subsection (3)* ensures that statutory instruments made under the Act may contain incidental and transitional provision where this is considered to be appropriate, and may make different provision in different cases.

Section 143: Orders and regulations: parliamentary control

355. *Section 143* provides for the parliamentary procedure which will apply to statutory instruments which are made under the Act. As a general rule, these statutory instruments will be subject to the negative resolution procedure (apart from commencement orders, which are not subject to any parliamentary procedure). However, under *subsection (2)* the affirmative resolution procedure will apply to:

- (a) Regulations made under section 7 (applying ring-fencing provisions to building societies);
- (b) Orders under section 41(4) (altering the list of things that are not to be regarded as payment systems);
- (c) Orders under section 145 (power to make further consequential amendments) which amend primary legislation; and
- (d) Orders under paragraph 6 of the Schedule 6 (power to make further modifications of primary legislation in connection with FMI administration).

Section 144: Interpretation

356. *Section 144* defines “enactment”, “the FCA”, “FSMA 2000” and “the PRA”.

Section 145: Power to make further consequential amendments

357. *Section 145* enables the Treasury, the Secretary of State and the Lord Chancellor to make amendments to other primary and secondary legislation considered necessary or expedient in consequence of any provision made by or under the Bill.

Section 146: Transitional provisions and savings

358. *Section 146* enables the Treasury, the Secretary of State and the Lord Chancellor to make transitional and saving provisions which may be necessary or expedient on the commencement of any provision of the Act. An order made under this section may confer functions on the FCA or the PRA and may modify, exclude or apply enactments.

Section 147: Extent

359. *Section 147* provides that the Act extends to the whole of the United Kingdom (*subsection (1)*), except for section 13 (provisions relating to preferential debts) section 139 (penalties for claims management service providers) and section 140 (the recovery of the expenditure of the Office for Legal Complaints in connection with claims management services), which under *subsection (2)* have the same extent as the Acts which they amend (for example, the amendments relating to the expenditure of the Office for Legal Complaints extend only to England and Wales, as do the relevant parts of the Legal Services Act 2007 and the Compensation Act 2006).

Section 148: Commencement and short title

360. *Section 148* provides for the commencement of the Act (see below) and gives the Act its short title.