



Financial Services (Banking Reform) Act 2013

2013 CHAPTER 33

PART 5

REGULATION OF PAYMENT SYSTEMS

Consultation, accountability and oversight

106 Investigations into regulatory failure

- (1) Part 5 of the Financial Services Act 2012 (inquiries and investigations) is amended as follows.
- (2) After section 76 insert—

“76A Duty of Payment Systems Regulator to investigate and report on possible regulatory failure

- (1) Subsection (3) applies where it appears to the Payment Systems Regulator that—
 - (a) events have occurred in relation to a regulated payment system which had or could have had a significant adverse effect on effective competition in the interests of—
 - (i) participants in the payment system, or
 - (ii) those who use, or are likely to use, the services provided by the payment system, and
 - (b) those events might not have occurred, or the adverse effect might have been reduced, but for a serious failure in—
 - (i) the system established by Part 5 of the Financial Services (Banking Reform) Act 2013 for the regulation of payment systems, or

- (ii) the operation of that system.
- (2) Subsection (3) also applies where the Treasury direct the Payment Systems Regulator that it appears to the Treasury that the conditions in subsection (1) are met in relation to specified events.
- (3) The Payment Systems Regulator must carry out an investigation into the events and the circumstances surrounding them and report to the Treasury on the result of the investigation.
- (4) Subsection (3) does not apply by virtue of subsection (1) if the Treasury direct the Payment Systems Regulator that it is not required to carry out an investigation into the events concerned.
- (5) In this section “participant”, in relation to a regulated payment system, has the same meaning as in Part 5 of the Financial Services (Banking Reform) Act 2013 (see section 42 of that Act).”
- (3) In section 77 (power of Treasury to require FCA or PRA to undertake investigation)—
 - (a) in subsection (1)(a), for “either regulator” substitute “a regulator”;
 - (b) in subsection (3), omit the “or” at the end of paragraph (b) and after paragraph (c) insert “, or
 - (d) a regulated payment system.”;
 - (c) the heading of that section becomes “**Power of Treasury to require regulator to undertake investigation**”.
- (4) In section 78 (conduct of investigation), in subsection (1), for “or 74” substitute “, 74 or 76A”.
- (5) In section 79 (conclusion of investigation), for “or 74” substitute “, 74 or 76A”.
- (6) In section 80 (statements of policy), in subsection (1)(a), for “or 74” substitute “, 74 or 76A”.
- (7) In section 81 (publication of directions), in subsection (1), after paragraph (b) insert—
 - “(ba) section 76A(4);”.
- (8) In section 83(1) (interpretation)—
 - (a) after the definition of “listed securities” insert—
 - ““the Payment Systems Regulator” means the body established under section 40 of the Financial Services (Banking Reform) Act 2013;”;
 - (b) in the definition of “regulator”, for “or the PRA” substitute “, the PRA or the Payment Systems Regulator”.