



# Financial Services (Banking Reform) Act 2013

## 2013 CHAPTER 33

### PART 4

#### CONDUCT OF PERSONS WORKING IN FINANCIAL SERVICES SECTOR

##### *Offence*

#### **37 Section 36: interpretation**

- (1) This section has effect for the interpretation of section 36.
- (2) “Financial institution” means a UK institution which—
  - (a) meets condition A or B, and
  - (b) is not an insurer or a credit union.
- (3) Condition A is that it has permission under Part 4A of FSMA 2000 to carry on the regulated activity of accepting deposits.
- (4) Condition B is that—
  - (a) it is for the purposes of FSMA 2000 an investment firm (see section 424A of that Act),
  - (b) it has permission under Part 4A of that Act to carry on the regulated activity of dealing in investments as principal, and
  - (c) when carried on by it, that activity is a PRA-regulated activity.
- (5) In subsection (2)—
  - (a) “UK institution” means an institution which is incorporated in, or formed under the law of any part of, the United Kingdom;
  - (b) “insurer” means an institution which is authorised under FSMA 2000 to carry on the regulated activity of effecting or carrying out contracts of insurance as principal;

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*Changes to legislation: There are currently no known outstanding effects for the Financial Services (Banking Reform) Act 2013, Section 37. (See end of Document for details)*

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- (c) “credit union” means a credit union as defined by section 31 of the Credit Unions Act 1979 or a credit union as defined by Article 2(2) of the Credit Unions (Northern Ireland) Order 1985.
- (6) Subsections (3), (4) and (5)(b) are to be read in accordance with sections 22 and 22A of FSMA 2000, taken with Schedule 2 to that Act and any order under section 22.
- (7) A person is a “senior manager” in relation to a financial institution if, under an arrangement entered into by the institution, or by a contractor of the institution, in relation to the carrying on by the institution of a regulated activity, the person performs a senior management function.
- [<sup>F1</sup>(8) “Senior management function” means—
- (a) a function of a description specified in rules made by the FCA under section 59(3)(a) or (b) of FSMA 2000 which is designated as a senior management function by the FCA under section 59(6A) of that Act;
  - (b) a function of a description specified in rules made by the PRA under section 59(3)(a) of that Act.]
- (9) A financial institution (“F”) is to be regarded as failing where—
- (a) F enters insolvency,
  - (b) any of the stabilisation options in Part 1 of the Banking Act 2009 is achieved in relation to F, or
  - (c) F is taken for the purposes of the Financial Services Compensation Scheme to be unable, or likely to be unable, to satisfy claims against F.
- (10) In subsection (9)(a) “insolvency” includes—
- (a) bankruptcy,
  - (b) liquidation,
  - (c) bank insolvency,
  - [<sup>F2</sup>(ca) building society insolvency,
  - (cb) investment bank insolvency,]
  - (d) administration,
  - (e) bank administration,
  - [<sup>F3</sup>(ea) building society special administration,]
  - (f) receivership,
  - (g) a composition between F and F's creditors, and
  - (h) a scheme of arrangement of F's affairs.
- [<sup>F4</sup>(11) For the purposes of subsection (10)—
- “bank administration” has the same meaning as in the Banking Act 2009 (see section 136 of that Act);
- “bank insolvency” has the same meaning as in that Act (see section 90 of that Act);
- “building society insolvency” and “building society special administration” have the same meaning as in the Building Societies Act 1986 (see section 119 of that Act);
- “investment bank insolvency” means any procedure established by regulations under section 233 of the Banking Act 2009.]

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#### Textual Amendments

- F1** S. 37(8) substituted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 4 para. 22\(6\)](#); S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with reg. 3)
- F2** S. 37(10)(ca)(cb) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 26\(2\)\(a\)](#), 41(3); S.I. 2016/627, reg. 2(1)(t)
- F3** S. 37(10)(ea) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 26\(2\)\(b\)](#), 41(3); S.I. 2016/627, reg. 2(1)(t)
- F4** S. 37(11) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 26\(3\)](#), 41(3); S.I. 2016/627, reg. 2(1)(t)

#### Commencement Information

- I1** S. 37 in force at 7.3.2016 by S.I. 2015/490, [art. 2\(1\)\(c\)](#) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))

**Changes to legislation:**

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