



# Bank of England and Financial Services Act 2016

## 2016 CHAPTER 14

### PART 1

#### THE BANK OF ENGLAND

##### *Financial arrangements*

## 9 Audit

In the Bank of England Act 1998, after section 7 insert—

### **“7ZA Audit: role of Comptroller and Auditor General**

- (1) Before appointing an auditor or auditors under section 7(5), the Bank must consult the Comptroller and Auditor General (“the Comptroller”).
- (2) The auditor or auditors appointed by the Bank must consult the Comptroller on the scope, timing and direction of the audit and on any audit plan (or any material revisions to an audit plan).
- (3) The Comptroller—
  - (a) has a right of access at any reasonable time to any document relating to the audit of the Bank's accounts which the Comptroller may reasonably require, and
  - (b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably necessary.
- (4) Subsection (3) applies only to documents in the custody or under the control of the Bank.

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- (5) An obligation imposed on a person as a result of the exercise of the powers conferred by subsection (3) is enforceable by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.
- (6) The Comptroller (or a person nominated by the Comptroller) may attend any proceedings of the Bank's audit committee which are concerned with the audit of the Bank's accounts.
- (7) The “Bank's audit committee” means the committee or sub-committee within the Bank for the time being having responsibilities relating to the audit of the Bank's accounts.”

#### Commencement Information

**II** [S. 9](#) in force at 6.7.2016 by [S.I. 2016/627](#), [reg. 2\(1\)\(j\)](#)

## 10 Activities indemnified by Treasury

In the Bank of England Act 1998, after section 7A insert—

### “7B Reports on Bank activities indemnified by Treasury

- (1) This section applies where the Treasury give an indemnity or guarantee to the Bank in respect of an activity or series of activities undertaken by the Bank.
- (2) The Treasury may direct the Bank to prepare a financial report in relation to the activity or series of activities to which the indemnity or guarantee relates.
- (3) A direction under subsection (2) may include directions as to—
  - (a) the financial years for which a report is to be prepared,
  - (b) the information to be contained in the report and the manner in which it is to be presented, and
  - (c) the methods and principles according to which any statement of financial information to be contained in the report is to be prepared.
- (4) A direction under subsection (2) may be revoked by a further direction.
- (5) The Bank must send any report that it prepares under subsection (2) to the Treasury.
- (6) The Treasury may send the report to the Comptroller and Auditor General (“the Comptroller”) for review.
- (7) The review is to consider such matters as may be agreed between the Comptroller and the Treasury.
- (8) The Comptroller—
  - (a) has a right of access at any reasonable time to any document the Comptroller may reasonably require for the purposes of the review, and
  - (b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably necessary.

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- (9) Subsection (8) applies only to documents in the custody or under the control of—
- (a) the Bank;
  - (b) the auditor or auditors appointed by the Bank under section 7(5).
- (10) An obligation imposed on a person as a result of the exercise of the powers conferred by subsection (8) is enforceable by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

### **7C Accounts of Bank companies carrying on activities indemnified by Treasury**

- (1) This section applies where the Treasury give an indemnity or guarantee to a company (“the company”) in which the Bank has an interest, in respect of an activity or series of activities undertaken by the company.
- (2) The Treasury may direct the company to send to the Comptroller and Auditor General (“the Comptroller”) accounts prepared by it in accordance with the Companies Act 2006 and any direction given by the Bank under section 7A(1).
- (3) A direction given under subsection (2)—
- (a) may relate to all financial years, or to financial years specified in the direction;
  - (b) may be revoked by a further direction.
- (4) Where a direction given under subsection (2) has effect in relation to a financial year, the company is exempt from the requirements of Part 16 of the Companies Act 2006 (audit) for that financial year, and its balance sheet must include a statement to that effect.
- (5) The Comptroller must examine any accounts sent to the Comptroller under this section with a view to satisfying himself or herself that the accounts have been properly prepared in all material respects in accordance with the bases of preparation identified in the accounts.
- (6) After completing the examination the Comptroller must—
- (a) certify the accounts and issue a report,
  - (b) send the certified accounts and the report to the Treasury, and
  - (c) if not satisfied that the accounts have been properly prepared in all material respects in accordance with the bases of preparation identified in the accounts, report to the House of Commons.
- (7) The Treasury must lay the copy of the certified accounts and the report before Parliament.
- (8) For the purposes of this section, the Bank has an interest in a company if—
- (a) the Bank, or a nominee of the Bank, is a member of the company, or
  - (b) the company is a subsidiary undertaking of the Bank, within the meaning of section 1162 of the Companies Act 2006.”

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## Commencement Information

**I2** [S. 10](#) in force at 6.7.2016 by [S.I. 2016/627](#), [reg. 2\(1\)\(k\)](#)

## 11 Examinations and reviews

In the Bank of England Act 1998, after section 7C (inserted by section 10) insert—

### “7D Examination by Comptroller and Auditor General

- (1) The Comptroller and Auditor General (“the Comptroller”) may carry out examinations into—
  - (a) the economy, efficiency and effectiveness with which the Bank has used its resources in discharging its functions;
  - (b) the economy, efficiency and effectiveness with which a Bank company has used its resources in discharging its functions.
- (2) An examination under this section may be limited to such functions (however described) of the Bank or the Bank company as the Comptroller considers appropriate.
- (3) An examination under this section is not to be concerned with the merits of the Bank's policy objectives.
- (4) An examination under this section is not to be concerned with the merits of—
  - (a) policy decisions taken by the Financial Policy Committee, the Monetary Policy Committee or the Prudential Regulation Committee;
  - (b) policy decisions taken by a committee or other body within the Bank for the time being having responsibilities for the supervision of payment systems, settlement systems or clearing houses, so far as the decisions relate to that supervision.
- (5) Subject to subsection (6), an examination under this section is not to be concerned with the merits of policy decisions taken by a committee or other body within the Bank for the time being having responsibilities for the exercise of any of the Bank's resolution functions, so far as the decisions relate to those functions.
- (6) Where the Bank has exercised relevant resolution functions in relation to a financial institution, subsection (5) does not prevent an examination under this section being concerned with the merits of policy decisions within that subsection which are relevant to the Bank's exercise of its resolution functions in relation to that institution (whether or not those policy decisions are also relevant to other financial institutions).
- (7) “Relevant resolution functions” are—
  - (a) any of the stabilisation powers;
  - (b) any of the Bank's functions (other than its functions as the Prudential Regulation Authority) under or by virtue of—
    - (i) Part 2 or 3, or section 233, of the Banking Act 2009,
    - (ii) Part 6 of the Financial Services (Banking Reform) Act 2013.

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- (8) Before carrying out an examination under this section, the Comptroller must consult the court of directors of the Bank.
- (9) The Comptroller may report to the House of Commons the results of any examination carried out by the Comptroller under this section.
- (10) For the purposes of this section—
  - “Bank company” means—
    - (a) a company which is a subsidiary undertaking of the Bank, within the meaning of section 1162 of the Companies Act 2006;
    - (b) a company not within paragraph (a) in respect of which a direction under section 7C(2) has effect;
  - “resolution functions” means the Bank's functions (other than its functions as the Prudential Regulation Authority) under or by virtue of—
    - (a) Parts 1 to 3, and section 233, of the Banking Act 2009,
    - (b) Part 6 of the Financial Services (Banking Reform) Act 2013,
    - (c) the Bank Recovery and Resolution (No. 2) Order 2014 (S.I. 2014/3348);
  - “stabilisation powers” has the same meaning as in the Banking Act 2009 (see section 1(4) of that Act).
- (11) Section 6 of the National Audit Act 1983 (Comptroller may carry out economy, efficiency and effectiveness examinations) does not apply to the Bank or a Bank company.

## **7E Memorandum of understanding**

- (1) The Bank and the Comptroller must prepare and maintain a memorandum of understanding about examinations under section 7D.
- (2) The memorandum must in particular include provision—
  - (a) as to functions of the Bank in respect of which the Comptroller will not usually consider it appropriate to carry out an examination;
  - (b) identifying the committees or other bodies referred to in section 7D(4)(b) and (5);
  - (c) establishing a procedure for resolving in a timely fashion any dispute between the Bank and the Comptroller as to whether a matter is (under section 7D(3) to (6)) a matter with which an examination under section 7D is not to be concerned;
  - (d) for the publication of the views of the Bank and the Comptroller as to whether a matter is such a matter, in cases where a dispute between them cannot be resolved.

## **7F Review by the Treasury**

- (1) The Treasury may appoint an independent person to conduct a review of the economy, efficiency and effectiveness with which the Bank has used its resources in discharging its functions as the Prudential Regulation Authority.
- (2) “Independent” means appearing to the Treasury to be independent of the Bank.

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- (3) A review under this section may be limited to such of the Bank's functions as the Prudential Regulation Authority (however described) as the Treasury may specify in appointing the person to conduct it.
- (4) A review under this section is not to be concerned with the merits of the Bank's general policy or principles in pursuing the Bank's objectives (including its objectives as the Prudential Regulation Authority).
- (5) On completion of the review, the person conducting it must make a written report to the Treasury—
  - (a) setting out the result of the review, and
  - (b) making such recommendations (if any) as the person considers appropriate.
- (6) A copy of the report must be—
  - (a) laid before Parliament, and
  - (b) published in such manner as the Treasury think fit.
- (7) Any expenses reasonably incurred in the conduct of the review are to be met by the Treasury out of money provided by Parliament.

#### **7G Right to obtain documents and information**

- (1) A person conducting an examination under section 7D or a review under section 7F—
  - (a) has a right of access at any reasonable time to any document the person may reasonably require for the purposes of the examination or review, and
  - (b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably necessary for that purpose.
- (2) Subsection (1) applies to documents in the custody or under the control of—
  - (a) the Bank;
  - (b) the auditor or auditors appointed by the Bank under section 7(5).
- (3) In the case of an examination under section 7D(1)(b), subsection (1) also applies to documents in the custody or under the control of—
  - (a) the company to which the examination relates;
  - (b) the auditor or auditors of that company.
- (4) An obligation imposed on a person as a result of the exercise of the powers conferred by subsection (1) is enforceable by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

#### **7H Restriction on disclosing information**

Section 353A of the Financial Services and Markets Act 2000 (FCA not to disclose certain information received from the Bank) applies in relation to the Comptroller and Auditor General and the National Audit Office as it applies in relation to the Financial Conduct Authority.”

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#### Commencement Information

- I3** [S. 11](#) in force at 6.7.2016 for specified purposes by [S.I. 2016/627](#), [reg. 2\(1\)\(l\)](#)
- I4** [S. 11](#) in force at 1.3.2017 in so far as not already in force by [S.I. 2017/43](#), [reg. 2\(b\)](#)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2019/1136 by [S.I. 2020/929](#) reg. 2