
STATUTORY INSTRUMENTS

2023 No. 1382

The Financial Services and Markets Act 2023
(Commencement No. 4 and Transitional and
Saving Provisions) (Amendment) Regulations 2023

PART 4

Transitional and saving provision

Saving provision relating to Part 1 of the Banking Act 2009

14.—(1) If, before 31st December 2023, the Bank has commenced a resolution by making any instrument under Chapter 3 of Part 1 of the Banking Act 2009 (special resolution regime)⁽¹⁾ in relation to a CCP—

- (a) the amendments made by paragraph 162 of Schedule 11 to the Act (central counterparties) do not apply in relation to that resolution of that CCP and any actions relating to that resolution in respect of that CCP’s clearing members, and
- (b) the Bank or the Treasury may, in connection with that resolution of that CCP, take any further actions permitted under Part 1 of the Banking Act 2009.

(2) In this regulation, “CCP” and “clearing member” have the meanings given in paragraph 154 of Schedule 11 to the Act (interpretation).

Transitional provision relating to section 33 of, and paragraph 8 of Schedule 7 to, the Act

15.—(1) This paragraph applies where—

- (a) a regulator (within the meaning given in section 3A(2) of FSMA 2000⁽²⁾) proposes to take a relevant action (within the meaning given in section 409B(4) of FSMA 2000⁽³⁾) on or after 1st January 2024;
- (b) a duty to consult applies in respect of the relevant action, for the purposes of section 409B(5) of FSMA 2000; and
- (c) before 1st January 2024, the regulator—
 - (i) published a draft of the proposed rules in respect of the relevant action; or
 - (ii) published the proposal to take the relevant action.

(2) Where paragraph (1) applies, section 409B of FSMA 2023 has effect as if for subsection (7) there were substituted—

“(7) The requirement imposed by subsection (2) must be carried out as soon as reasonably practicable.”.

(1) 2009 c. 1.

(2) Section 3A(2) was inserted by section 6(1) of the Financial Services Act 2012 (c. 21).

(3) Section 409B was inserted by section 33 of the Financial Services and Markets Act 2023.

- (3) This paragraph applies where—
- (a) the Payment Systems Regulator proposes to take a relevant action (within the meaning given in section 107A(4) of the 2013 Act⁽⁴⁾) on or after 1st January 2024;
 - (b) a duty to consult applies in respect of the relevant action, for the purposes of section 107A(5) of the 2013 Act; and
 - (c) before 1st January 2024, the Payment Systems Regulator—
 - (i) published a draft of the proposed requirement in respect of the relevant action; or
 - (ii) published the proposal to take the relevant action.
- (4) Where paragraph (3) applies, section 107A of the 2013 Act has effect as if for subsection (6) there were substituted—
- “(6) The requirement imposed by subsection (2) must be carried out as soon as reasonably practicable.”.

Transitional provision relating to sections 27, 48 and 51 of the Act

16.—(1) The provisions of the Act described in regulation 12(a) and (b) do not apply in relation to the making of rules and technical standards, the preparation and issuing of codes, the giving of guidance or the determination of general policy and principles under FSMA 2000, where a proposed draft of the rules, technical standards, codes, guidance, policy or principles has been published before 1st January 2025, whether or not the final version differs from the draft published.

(2) The provisions of the Act described in regulation 12(c) and (d) do not apply in relation to the giving of directions or guidance or the determination of general policy and principles under the 2013 Act where a proposed draft of the directions, guidance, policy or principles has been published before 1st January 2025, whether or not the final version differs from the draft published.

(3) In this regulation, “technical standards” means standards made by the Bank, FCA or PRA under Chapter 2A of Part 9A of FSMA 2000⁽⁵⁾.

Saving provision relating to sections 41, 42 and 46 of the Act

17. Sections 1MA(1) and 2LA(1) of FSMA 2000 (composition of Panels)⁽⁶⁾, and section 103(5A) of the 2013 Act (regulator’s general duty to consult)⁽⁷⁾, do not apply to appointments of persons as members of any panel to which those provisions apply, where those appointments were made before 26th December 2023.

Amendment of the Financial Services and Markets Act 2023 (Commencement No. 2 and Transitional Provisions) Regulations 2023

18. In regulation 4 of the Financial Services and Markets Act 2023 (Commencement No. 2 and Transitional Provisions) Regulations 2023⁽⁸⁾ (transitional provision for PRA rules implementing Basel 3.1 standards), in paragraph (2)—

- (a) after sub-paragraph (e) insert the following sub-paragraph—
 - “(ea) section 33 (effect of rules etc on international trade obligations);”;
- (b) in sub-paragraph (h), for “section 138JA(11)” substitute “section 138JA(2)(a), (11)”.

(4) Section 107A was inserted by paragraph 8 of Schedule 7 to the Financial Services and Markets Act 2023.

(5) Part 9A was substituted by section 24(1) of the Financial Services Act 2012 (c. 21), and Chapter 2A was inserted into Part 9A by Part 1 of Schedule 10 to the Financial Services and Markets Act 2023.

(6) Sections 1MA and 2LA were inserted by section 46 of the Financial Services and Markets Act 2023.

(7) Subsection (5A) of section 103 was inserted by section 46 of the Financial Services and Markets Act 2023.

(8) S.I. 2023/936 (C. 55).

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*
