



Banking Act 1987

1987 CHAPTER 22

PART I

REGULATION OF DEPOSIT-TAKING BUSINESS

Information

39 Power to obtain information and require production of documents

- (1) The Bank may by notice in writing served on an authorised institution—
 - (a) require the institution to provide the Bank, at such time or times or at such intervals or in respect of such period or periods as may be specified in the notice, with such information as the Bank may reasonably require for the performance of its functions under this Act;
 - (b) require the institution to provide the Bank with a report by an accountant or other person with relevant professional skill on, or on any aspect of, any matter about which the Bank has required or could require the institution to provide information under paragraph (a) above.
- (2) The accountant or other person appointed by an institution to make any report required under subsection (1)(b) above shall be a person nominated or approved by the Bank; and the Bank may require his report to be in such form as is specified in the notice.
- (3) The Bank may—
 - (a) by notice in writing served on an authorised institution require it to produce, within such time and at such place as may be specified in the notice, such document or documents of such description as may be so specified;
 - (b) authorise an officer, servant or agent of the Bank, on producing evidence of his authority, to require any such institution to provide him forthwith with such information, or to produce to him forthwith such documents, as he may specify,
being such information or documents as the Bank may reasonably require for the performance of its functions under this Act.

Status: This is the original version (as it was originally enacted).

- (4) Where, by virtue of subsection (3) above, the Bank or any officer, servant or agent of the Bank has power to require the production of any documents from an authorised institution, the Bank or that officer, servant or agent shall have the like power to require the production of those documents from any person who appears to be in possession of them; but where any person from whom such production is required claims a lien on documents produced by him, the production shall be without prejudice to the lien.
- (5) The power under this section to require an institution or other person to produce any documents includes power—
- (a) if the documents are produced, to take copies of them or extracts from them and to require that institution or person, or any other person who is a present or past director, controller or manager of, or is or was at any time employed by or acting as an employee of, the institution in question, to provide an explanation of any of them; and
 - (b) if the documents are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (6) If it appears to the Bank to be desirable in the interests of the depositors or potential depositors of an authorised institution to do so, it may also exercise the powers conferred by subsections (1) and (3) above in relation to any body corporate which is or has at any relevant time been—
- (a) a holding company, subsidiary or related company of that institution;
 - (b) a subsidiary of a holding company of that institution;
 - (c) a holding company of a subsidiary of that institution; or
 - (d) a body corporate in the case of which a shareholder controller of that institution, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, more than 50 per cent. of the voting power at a general meeting;
- or in relation to any partnership of which that institution is or has at any relevant time been a member.
- (7) If it appears to the Bank to be desirable to do so in the interests of the depositors or potential depositors of an authorised institution which is a partnership ("the authorised partnership") it may also exercise the powers conferred by subsections (1) and (3) above in relation to—
- (a) any other partnership having a member in common with the authorised partnership;
 - (b) any body corporate which is or has at any relevant time been a member of the authorised partnership;
 - (c) any body corporate in the case of which the partners in the authorised partnership hold more than 20 per cent. of the shares or any partner in the authorised partnership, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, more than 50 per cent. of the voting power at a general meeting; or
 - (d) any subsidiary or holding company of any such body corporate as is mentioned in paragraph (b) or (c) above or any holding company of any such subsidiary.
- (8) The foregoing provisions of this section shall apply to a former authorised institution as they apply to an authorised institution.

- (9) The Bank may by notice in writing served on any person who is or is to be a director, controller or manager of an authorised institution require him to provide the Bank, within such time as may be specified in the notice, with such information or documents as the Bank may reasonably require for determining whether he is a fit and proper person to hold the particular position which he holds or is to hold.
- (10) The Bank may exercise the powers conferred by subsections (1) and (3) above in relation to any person who is a significant shareholder of an authorised institution within the meaning of section 37 above if the Bank considers that the exercise of those powers is desirable in the interests of the depositors or potential depositors of that institution.
- (11) Any person who without reasonable excuse fails to comply with a requirement imposed on him under this section shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the fifth level on the standard scale or to both.
- (12) A statement made by a person in compliance with a requirement imposed by virtue of this section may be used in evidence against him.
- (13) Nothing in this section shall compel the production by a barrister, advocate or solicitor of a document containing a privileged communication made by him or to him in that capacity.