



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 9B

RING-FENCING

[^{F1}Introductory

Textual Amendments

- F1** Pt. 9B inserted (1.3.2014 for the insertion of ss. 142A-142F, 142I, 142W-142Z1 for specified purposes, 21.4.2016 for the insertion of s. 142H, 1.1.2019 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 4\(1\), 148\(5\); S.I. 2014/377, art. 2\(1\)\(b\), Sch. Pt. 2; S.I. 2016/512, art. 2\(a\); S.I. 2018/1306, art. 2\(d\)](#)

142A “Ring-fenced body”

- (1) In this Act “ring-fenced body” means a UK institution which carries on one or more core activities (see section 142B) in relation to which it has a Part 4A permission.
- (2) But “ring-fenced body” does not include—
 - (a) a building society within the meaning of the Building Societies Act 1986, or
 - (b) a UK institution of a class exempted by order made by the Treasury.
- (3) An order under subsection (2)(b) may be made in relation to a class of UK institution only if the Treasury are of the opinion that the exemption conferred by the order would not be likely to have a significant adverse effect on the continuity of the provision in the United Kingdom of core services.
- (4) Subject to that, in deciding whether and, if so, how to exercise their powers under subsection (2)(b), the Treasury must have regard to the desirability of minimising any adverse effect that the ring-fencing provisions might be expected to have on competition in the market for services provided in the course of carrying on core

Status: Point in time view as at 31/12/2020.

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activities, including any adverse effect on the ease with which new entrants can enter the market.

- (5) In subsection (4) “the ring-fencing provisions” means ring-fencing rules and the duty imposed as a result of section 142G.
- (6) An order under subsection (2)(b) may provide for the exemption to be subject to conditions.
- (7) In this section “UK institution” means a body corporate incorporated in the United Kingdom.

142B Core activities

- (1) References in this Act to a “core activity” are to be read in accordance with this section.
- (2) The regulated activity of accepting deposits (whether carried on in the United Kingdom or elsewhere) is a core activity unless it is carried on in circumstances specified by the Treasury by order.
- (3) An order under subsection (2) may be made only if the Treasury are of the opinion that it is not necessary for either of the following purposes that the regulated activity of accepting deposits should be a core activity when carried on in the specified circumstances.
- (4) Those purposes are—
 - (a) to secure an appropriate degree of protection for the depositors concerned, or
 - (b) to protect the continuity of the provision in the United Kingdom of services provided in the course of carrying on the regulated activity of accepting deposits.
- (5) The Treasury may by order provide for a regulated activity other than that of accepting deposits to be a core activity, either generally or when carried on in circumstances specified in the order.
- (6) An order under subsection (5) may be made only if the Treasury are of the opinion—
 - (a) that an interruption of the provision of services provided in the United Kingdom in the carrying on of the regulated activity concerned could adversely affect the stability of the UK financial system or of a significant part of that system, and
 - (b) that the continuity of the provision of those services can more effectively be protected by treating the activity as a core activity.

142C Core services

- (1) References in this Act to “core services” are to be read in accordance with this section.
- (2) The following are core services—
 - (a) facilities for the accepting of deposits or other payments into an account which is provided in the course of carrying on the core activity of accepting deposits;
 - (b) facilities for withdrawing money or making payments from such an account;
 - (c) overdraft facilities in connection with such an account.
- (3) The Treasury may by order provide that any other specified services provided in the course of carrying on the core activity of accepting deposits are also core services.

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- (4) If an order under section 142B(5) provides for an activity other than that of accepting deposits to be a core activity, the Treasury must by order provide that specified services provided in the course of carrying on that activity are core services.
- (5) The services specified by order under subsection (4) must be services in relation to which the Treasury are of the opinion mentioned in section 142B(6)(a).

142D Excluded activities

- (1) References in this Act to an “excluded activity” are to be read in accordance with this section.
- (2) The regulated activity of dealing in investments as principal (whether carried on in the United Kingdom or elsewhere) is an excluded activity unless it is carried on in circumstances specified by the Treasury by order.
- (3) An order under subsection (2) may be made only if the Treasury are of the opinion that allowing ring-fenced bodies to deal in investments as principal in the specified circumstances would not be likely to result in any significant adverse effect on the continuity of the provision in the United Kingdom of core services.
- (4) The Treasury may by order provide for an activity other than the regulated activity of dealing in investments as principal to be an excluded activity, either generally or when carried on in circumstances specified in the order.
- (5) An activity to which an order under subsection (4) relates—
 - (a) need not be a regulated activity, and
 - (b) may be an activity carried on in the United Kingdom or elsewhere.
- (6) In deciding whether to make an order under subsection (4) in relation to any activity, the Treasury must—
 - (a) have regard to the risks to which a ring-fenced body would be exposed if it carried on the activity concerned, and
 - (b) consider whether the carrying on of that activity by a ring-fenced body would make it more likely that the failure of the body would have an adverse effect on the continuity of the provision in the United Kingdom of core services.
- (7) An order under subsection (4) may be made only if the Treasury are of the opinion that the making of the order is necessary or expedient for the purpose of protecting the continuity of the provision in the United Kingdom of core services.

142E Power of Treasury to impose prohibitions

- (1) The Treasury may by order prohibit ring-fenced bodies from—
 - (a) entering into transactions of a specified kind or with persons falling within a specified class;
 - (b) establishing or maintaining a branch in a specified country or territory;
 - (c) holding in specified circumstances shares or voting power in companies of a specified description.
- (2) In deciding whether to make an order under this section imposing a prohibition, the Treasury must—

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- (a) have regard to the risks to which a ring-fenced body would be exposed if it did the thing to which the prohibition relates, and
 - (b) consider whether the doing of that thing by a ring-fenced body would make it more likely that the failure of the body would have an adverse effect on the continuity of the provision in the United Kingdom of core services.
- (3) An order under this section may be made only if the Treasury are of the opinion that the making of the order is necessary or expedient for the purpose of protecting the continuity of the provision in the United Kingdom of core services.
- (4) An order under this section may in particular—
- (a) provide for any prohibition to be subject to exemptions specified in the order;
 - (b) provide for any exemption to be subject to conditions specified in the order.

142F Orders under section 142A, 142B, 142D or 142E

- (1) An order made under section 142A, 142B, 142D or 142E may—
- (a) authorise or require the making of rules by a regulator for the purposes of, or for purposes connected with, any provision of the order;
 - (b) authorise the making of other instruments by a regulator for the purposes of, or for purposes connected with, any provision of the order;
 - (c) refer to a publication issued by a regulator, another body in the United Kingdom or an international organisation, as the publication has effect from time to time.
- (2) If the order confers powers on a regulator or authorises or requires the making of rules or other instruments by a regulator, the order may also—
- (a) impose conditions on the exercise of any power conferred on the regulator;
 - (b) impose consultation requirements on the regulator;
 - (c) make the exercise of a power by the regulator subject to the consent of the Treasury.]

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