



Banking Act 2009

2009 CHAPTER 1

PART 5

INTER-BANK PAYMENT SYSTEMS

Introduction

181 Overview

This Part enables the Bank of England to oversee certain systems for payments between financial institutions.

Commencement Information

II S. 181 in force at 4.8.2009 by *S.I. 2009/2038*, art. 2, *Sch. para. 1*

182 Interpretation: “inter-bank payment system”

- (1) In this Part “inter-bank payment system” means arrangements designed to facilitate or control the transfer of money between financial institutions who participate in the arrangements.
- (2) The fact that persons other than financial institutions can participate does not prevent arrangements from being an inter-bank payment system.
- (3) In subsection (1) “financial institutions” means—
 - (a) banks, and
 - (b) building societies.
- (4) In subsection (1) “money” includes credit.
- (5) A system is an inter-bank payment system for the purposes of this Part whether or not it operates wholly or partly in relation to persons or places outside the United Kingdom.

Status: Point in time view as at 01/03/2017.

Changes to legislation: Banking Act 2009, Part 5 is up to date with all changes known to be in force on or before 12 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I2 S. 182 in force at 4.8.2009 by [S.I. 2009/2038](#), art. 2, [Sch. para. 2](#)

183 Interpretation: other expressions

In this Part—

- (a) a reference to the “operator” of an inter-bank payment system is a reference to any person with responsibility under the system for managing or operating it,
- (b) a reference to the operation of a system includes a reference to its management,
- (c) “the UK financial system” has the meaning given ^{F1}... by [^{F2}section 11] of the Financial Services and Markets Act 2000 ^{F3}....,
- (d) a reference to the Bank of England's role as a monetary authority is to be construed in accordance with section 244(2)(c),
- [^{F4}(e) the FCA” means the Financial Conduct Authority,
- (f) “Part 4A permission” has the meaning given by section 55A of the Financial Services and Markets Act 2000,
- (g) “the PRA” means the Prudential Regulation Authority,
- (h) “PRA-regulated activity” has the meaning given by section 22A of the Financial Services and Markets Act 2000, and
- (i) “recognised investment exchange” has the meaning given by section 285 of that Act.]

Textual Amendments

- F1** Words in s. 183(c) omitted (8.4.2010) by virtue of [Financial Services Act 2010 \(c. 28\)](#), s. 26(1)(l), [Sch. 2 para. 44](#)
- F2** Words in s. 183(c) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 17 para. 53\(2\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F3** Words in s. 183(c) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 17 para. 53\(2\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F4** S. 183(e)-(i) substituted for s. 183(e) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 17 para. 53\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

Commencement Information

I3 S. 183 in force at 4.8.2009 by [S.I. 2009/2038](#), art. 2, [Sch. para. 2](#)

Recognised systems

184 Recognition order

- (1) The Treasury may by order (“recognition order”) specify an inter-bank payment system as a recognised system for the purposes of this Part.
- (2) A recognition order must specify in as much detail as is reasonably practicable the arrangements which constitute the inter-bank payment system.

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- (3) The Treasury may not specify an inter-bank system operated solely by the Bank of England.

Commencement Information

I4 S. 184 in force at 4.8.2009 by [S.I. 2009/2038](#), [art. 2](#), [Sch. para. 3](#)

185 Recognition criteria

- (1) The Treasury may make a recognition order in respect of an inter-bank payment system only if satisfied that any deficiencies in the design of the system, or any disruption of its operation, would be likely—
- (a) to threaten the stability of, or confidence in, the UK financial system, or
 - (b) to have serious consequences for business or other interests throughout the United Kingdom.
- (2) In considering whether to specify a system the Treasury must have regard to—
- (a) the number and value of the transactions that the system presently processes or is likely to process in the future,
 - (b) the nature of the transactions that the system processes,
 - (c) whether those transactions or their equivalent could be handled by other systems,
 - (d) the relationship between the system and other systems, and
 - (e) whether the system is used by the Bank of England in the course of its role as a monetary authority.

Commencement Information

I5 S. 185 in force at 4.8.2009 by [S.I. 2009/2038](#), [art. 2](#), [Sch. para. 3](#)

186 Procedure

- (1) Before making a recognition order in respect of a payment system the Treasury must—
- (a) consult the Bank of England,
 - (b) notify the operator of the system, and
 - (c) consider any representations made.
- [^{F5}(2) In addition, the Treasury—
- (a) must consult the FCA before making a recognition order in respect of a payment system the operator of which—
 - (i) is, or has applied to become, a recognised investment exchange, or
 - (ii) has, or has applied for, a Part 4A permission, and
 - (b) if the operator has, or has applied for, a Part 4A permission for the carrying on of a PRA-regulated activity, must also consult the PRA.]
- (3) In considering whether to make a recognition order in respect of a payment system the Treasury may rely on information provided by the Bank of England^[F6], the FCA or the PRA].

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Textual Amendments

- F5** S. 186(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(4\)\(a\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F6** Words in s. 186(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(4\)\(b\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

Commencement Information

- I6** S. 186 in force at 4.8.2009 by [S.I. 2009/2038, art. 2, Sch. para. 3](#)

[^{F7}186A Amendment of recognition order

- (1) The Treasury may amend a recognition order.
- (2) Before amending a recognition order the Treasury must—
 - (a) consult the Bank of England,
 - (b) notify the operator of the recognised inter-bank payment system, and
 - (c) consider any representations made.
- (3) In addition, the Treasury—
 - (a) must consult the FCA before amending a recognition order in respect of a payment system the operator of which—
 - (i) is, or has applied to become, a recognised investment exchange, or
 - (ii) has, or has applied for, a Part 4A permission, and
 - (b) if the operator has, or has applied for, a Part 4A permission for the carrying on of a PRA-regulated activity, must also consult the PRA.
- (4) The Treasury must consider any request by the operator of a recognised inter-bank payment system for the amendment of its recognition order.]

Textual Amendments

- F7** S. 186A inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(2\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

187 De-recognition

- (1) The Treasury may revoke a recognition order.
- (2) The Treasury must revoke a recognition order if not satisfied that the criteria in section 185 are met in respect of the recognised inter-bank payment system.
- (3) Before revoking a recognition order the Treasury must—
 - (a) consult the Bank of England,
 - (b) notify the operator of the recognised inter-bank payment system, and
 - (c) consider any representations made.
- [^{F8}(4) In addition, the Treasury—
 - (a) must consult the FCA before revoking a recognition order in respect of a payment system the operator of which—

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- (i) is, or has applied to become, a recognised investment exchange, or
 - (ii) has, or has applied for, a Part 4A permission, and
 - (b) if the operator has, or has applied for, a Part 4A permission for the carrying on of a PRA-regulated activity, must also consult the PRA.]
- (5) The Treasury must consider any request by the operator of a recognised inter-bank payment system for the revocation of its recognition order.

Textual Amendments

F8 S. 187(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(5)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), **art. 3**, [Sch.](#)

Commencement Information

I7 S. 187 in force at 4.8.2009 by [S.I. 2009/2038](#), **art. 2**, [Sch. para. 3](#)

Regulation

188 Principles

- (1) The Bank of England may publish principles to which operators of recognised inter-bank payment systems are to have regard in operating the systems.
- (2) Before publishing principles the Bank must obtain the approval of the Treasury.

Commencement Information

I8 S. 188 in force at 31.12.2009 by [S.I. 2009/3000](#), **art. 4**, [Sch. para. 1](#)

189 Codes of practice

The Bank of England may publish codes of practice about the operation of recognised inter-bank payment systems.

Commencement Information

I9 S. 189 in force at 12.11.2009 for specified purposes and 31.12.2009 in so far as not already in force by [S.I. 2009/3000](#), **art. 4**, [Sch. para. 1](#)

190 System rules

- (1) The Bank of England may require the operator of a recognised inter-bank payment system—
 - (a) to establish rules for the operation of the system;
 - (b) to change the rules in a specified way or so as to achieve a specified purpose;
 - (c) to notify the Bank of any proposed change to the rules;
 - (d) not to change the rules without the approval of the Bank.
- (2) A requirement under subsection (1)(c) or (d) may be general or specific.

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Commencement Information

I10 S. 190 in force at 31.12.2009 by S.I. 2009/3000, art. 4, Sch. para. 1

[^{F9}191 Directions

- (1) The Bank of England may give directions in writing to the operator of a recognised inter-bank [^{F10}payment] system.
- (2) A direction may—
 - (a) require or prohibit the taking of specified action in the operation of the system;
 - (b) set standards to be met in the operation of the system.
- (3) If a direction is given for the purpose of resolving or reducing a threat to the stability of the UK financial system, the operator (including its officers and staff) has immunity from liability in damages in respect of action or inaction in accordance with the direction.
- (4) A direction given for the purpose mentioned in subsection (3) must—
 - (a) include a statement that it is given for that purpose, and
 - (b) inform the operator of the effect of that subsection.
- (5) The Treasury may by order confer immunity on any person from liability in damages in respect of action or inaction in accordance with a direction (including a direction given for the purpose mentioned in subsection (3)).
- (6) An order—
 - (a) is to be made by statutory instrument, and
 - (b) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) An immunity conferred by or under this section does not extend to action or inaction—
 - (a) in bad faith, or
 - (b) in contravention of section 6(1) of the Human Rights Act 1998.]

Textual Amendments

- F9** S. 191 substituted (1.4.2013) by Financial Services Act 2012 (c. 21), ss. 104(3), 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F10** Word in s. 191(1) inserted (1.3.2014) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), Sch. 10 para. 8; S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1

192 Role of [^{F11}FCA and PRA]

- (1) In exercising powers under this Part the Bank of England shall have regard to any action that [^{F12}the FCA or the PRA] has taken or could take.
- [^{F13}(2) The Bank of England—
 - (a) must consult the FCA before taking action under this Part in respect of a recognised inter-bank payment system the operator of which satisfies section 186(2)(a), and

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- (b) must consult the PRA before taking action under this Part in respect of a recognised inter-bank payment system the operator of which satisfies section 186(2)(b).]
- (3) If [^{F14}the FCA or the PRA] gives the Bank of England notice that [^{F15}it] is considering taking action in respect of the operator of a recognised inter-bank payment system who satisfies [^{F16}section 186(2)(a) or (b)], the Bank may not take action under this Part in respect of the operator unless—
- (a) [^{F17}the FCA or (as the case may be) the PRA] consents, or
- (b) the notice is withdrawn.

Textual Amendments

- F11** Words in s. 192 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(6\)\(d\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F12** Words in s. 192(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(6\)\(a\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F13** S. 192(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(6\)\(b\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F14** Words in s. 192(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(6\)\(c\)\(i\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F15** Word in s. 192(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(6\)\(c\)\(ii\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F16** Words in s. 192(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(6\)\(c\)\(iii\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F17** Words in s. 192(3)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(6\)\(c\)\(iv\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

Commencement Information

- I11** S. 192 in force at 12.11.2009 for specified purposes and 31.12.2009 in so far as not already in force by [S.I. 2009/3000, arts. 2, 4, Sch. para. 1](#)

Enforcement

193 Inspection

- (1) The Bank of England may appoint one or more persons to inspect the operation of a recognised inter-bank payment system.
- (2) The operator of a recognised inter-bank payment system must—
- (a) grant an inspector access, on request and at any reasonable time, to premises on or from which any part of the system is operated, and
- (b) otherwise co-operate with an inspector.

Commencement Information

- I12** S. 193 in force at 31.12.2009 by [S.I. 2009/3000, art. 4, Sch. para. 2](#)

Status: Point in time view as at 01/03/2017.

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194 Inspection: warrant

- (1) A justice of the peace may on the application of an inspector issue a warrant entitling an inspector or a constable to enter premises if—
 - (a) any part of the management or operation of a recognised inter-bank payment system is conducted on the premises (whether by an operator of the system or by someone providing services used by an operator), and
 - (b) any of the following conditions is satisfied.
- (2) Condition 1 is that—
 - (a) a requirement under section 204 in connection with the payment system has not been complied with, and
 - (b) there is reason to believe that information relevant to the requirement is on the premises.
- (3) Condition 2 is that there is reason to suspect that if a requirement under section 204 were imposed in connection with the payment system in respect of information on the premises—
 - (a) the requirement would not be complied with, and
 - (b) the information would be destroyed or otherwise tampered with.
- (4) Condition 3 is that an inspector—
 - (a) gave reasonable notice of a wish to enter the premises, and
 - (b) was refused entry.
- (5) Condition 4 is that a person occupying or managing the premises has failed to cooperate with an inspector.
- (6) A warrant—
 - (a) permits an inspector or a constable to enter the premises,
 - (b) permits an inspector or a constable to search the premises and copy or take possession of information or documents, and
 - (c) permits a constable to use reasonable force.
- (7) Sections 15(5) to (8) and 16 of the Police and Criminal Evidence Act 1984 (warrants: procedure) apply to warrants under this section.
- (8) In the application of this section to Scotland—
 - (a) the reference to a justice of the peace includes a reference to a sheriff, and
 - (b) ignore subsection (7).
- (9) In the application of this section to Northern Ireland—
 - (a) the reference to a justice of the peace is a reference to a lay magistrate, and
 - (b) the reference to sections 15(5) to (8) and 16 of the Police and Criminal Evidence Act 1984 is a reference to the equivalent provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989.

Commencement Information

I13 S. 194 in force at 31.12.2009 by S.I. 2009/3000, art. 4, Sch. para. 2

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195 Independent report

- (1) The Bank of England may require the operator of a recognised inter-bank payment system to appoint an expert to report on the operation of the system.
- (2) The Bank may impose a requirement only if it thinks—
 - (a) the operator is not taking sufficient account of principles published by the Bank under section 188,
 - (b) the operator is failing to comply with a code of practice under section 189, or
 - (c) the report is likely for any other reason to assist the Bank in the performance of its functions under this Part.
- (3) The Bank may impose requirements about—
 - (a) the nature of the expert to be appointed;
 - (b) the content of the report;
 - (c) treatment of the report (including disclosure and publication);
 - (d) timing.

Commencement Information

I14 S. 195 in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, [Sch. para. 2](#)

196 Compliance failure

In this Part “compliance failure” means a failure by the operator of a recognised inter-bank payment system to—

- (a) comply with a code of practice under section 189,
- (b) comply with a requirement under section 190,
- (c) comply with a direction under section 191, or
- (d) ensure compliance with a requirement under section 195.

Commencement Information

I15 S. 196 in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, [Sch. para. 2](#)

197 Publication

- (1) The Bank of England may publish details of a compliance failure by the operator of a recognised inter-bank payment system.
- (2) The Bank may publish details of a sanction imposed under sections 198 to 200.

Commencement Information

I16 S. 197 in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, [Sch. para. 2](#)

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198 Penalty

- (1) The Bank of England may require the operator of a recognised inter-bank payment system to pay a penalty in respect of a compliance failure.
- (2) A penalty—
 - (a) must be paid to the Bank of England, and
 - (b) may be enforced by the Bank as a debt.
- (3) The Bank must prepare a statement of the principles which it will apply in determining—
 - (a) whether to impose a penalty, and
 - (b) the amount of a penalty.
- (4) The Bank must—
 - (a) publish the statement on its internet website,
 - (b) send a copy to the Treasury,
 - (c) review the statement from time to time and revise it if necessary (and paragraphs (a) and (b) apply to a revision), and
 - (d) in applying the statement to a compliance failure, apply the version in force when the failure occurred.

Commencement Information

I17 S. 198 in force at 31.12.2009 by S.I. 2009/3000, art. 4, Sch. para. 2

199 Closure

- (1) This section applies if the Bank of England thinks that a compliance failure—
 - (a) threatens the stability of, or confidence in, the UK financial system, or
 - (b) has serious consequences for business or other interests throughout the United Kingdom.
- (2) The Bank may give the operator of the inter-bank payment system concerned an order to stop operating the system (a “closure order”)—
 - (a) for a specified period,
 - (b) until further notice, or
 - (c) permanently.
- (3) A closure order may apply to—
 - (a) all activities of the payment system, or
 - (b) specified activities.
- (4) An operator who fails to comply with a closure order commits an offence.
- (5) A person guilty of an offence is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

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Commencement Information

118 S. 199 in force at 31.12.2009 by S.I. 2009/3000, art. 4, Sch. para. 2

200 Management disqualification

- (1) The Bank of England may by order prohibit a specified person from being an operator of a recognised inter-bank payment system—
 - (a) for a specified period,
 - (b) until further notice, or
 - (c) permanently.
- (2) The Bank may by order prohibit a specified person from holding an office or position involving responsibility for taking decisions about the management of a recognised inter-bank payment system—
 - (a) for a specified period,
 - (b) until further notice, or
 - (c) permanently.
- (3) A person who breaches a prohibition under subsection (1) or (2) commits an offence.
- (4) A person guilty of an offence is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

Commencement Information

119 S. 200 in force at 12.11.2009 for specified purposes and 31.12.2009 in so far as not already in force by S.I. 2009/3000, arts. 2, 4, Sch. para. 2

201 Warning

- (1) Before imposing a sanction on the operator of an inter-bank payment system or on another person the Bank of England must—
 - (a) give the operator or other person a notice (a “warning notice”),
 - (b) give the operator or other person at least 21 days to make representations,
 - (c) consider any representations made, and
 - (d) as soon as is reasonably practicable, give the operator or other person a notice stating whether or not the Bank intends to impose the sanction.
- (2) In subsection (1) “imposing a sanction” means—
 - (a) publishing details under section 197(1),
 - (b) requiring the payment of a penalty under section 198,
 - (c) giving a closure order under section 199, or
 - (d) making an order under section 200.
- (3) Despite subsection (1), if satisfied that it is necessary the Bank may without notice—
 - (a) give a closure order under section 199, or
 - (b) make an order under section 200.

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Commencement Information

I20 S. 201 in force at 12.11.2009 for specified purposes and 31.12.2009 in so far as not already in force by S.I. 2009/3000, arts. 2, 4, **Sch. para. 2**

202 Appeal

- (1) Where the Bank of England notifies a person under section 201(1)(d) that the Bank intends to impose a sanction, the person may appeal to the [^{F18}Upper Tribunal].
- (2) Where the Bank of England imposes a sanction on a person without notice in reliance on section 201(3), the person may appeal to the [^{F19}Upper Tribunal].
- [^{F20}(3) The Bank of England may not impose a sanction while an appeal under this section could be brought or is pending.]

Textual Amendments

- F18** Words in s. 202(1) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(e), **Sch. 2 para. 151(a)** (with Sch. 5)
- F19** Words in s. 202(2) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(e), **Sch. 2 para. 151(a)** (with Sch. 5)
- F20** S. 202(3) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(e), **Sch. 2 para. 151(b)** (with Sch. 5)

Commencement Information

I21 S. 202 in force at 31.12.2009 by S.I. 2009/3000, art. 4, **Sch. para. 2**

[^{F21}202A Injunctions

- (1) If, on the application of the Bank of England, the court is satisfied—
 - (a) that there is a reasonable likelihood that there will be a compliance failure, or
 - (b) that there has been a compliance failure and there is a reasonable likelihood that it will continue or be repeated,
 the court may make an order restraining the conduct constituting the failure.
- (2) If, on the application of the Bank of England, the court is satisfied—
 - (a) that there has been a compliance failure by the operator of a recognised inter-bank payment system, and
 - (b) that there are steps which could be taken for remedying the failure,
 the court may make an order requiring the operator, and anyone else who appears to have been knowingly concerned in the failure, to take such steps as the court may direct to remedy it.
- (3) If, on the application of the Bank of England, the court is satisfied—
 - (a) that there may have been a compliance failure by the operator of a recognised inter-bank payment system, or
 - (b) that a person may have been knowingly concerned in a compliance failure,
 the court may make an order restraining the operator or person from dealing with any assets which it is satisfied the operator or person is reasonably likely to deal with.

Status: Point in time view as at 01/03/2017.

Changes to legislation: Banking Act 2009, Part 5 is up to date with all changes known to be in force on or before 12 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The jurisdiction conferred by this section is exercisable—
 - (a) in England and Wales and Northern Ireland, by the High Court, and
 - (b) in Scotland, by the Court of Session.
- (5) In this section—
 - (a) references to an order restraining anything are, in Scotland, to be read as references to an interdict prohibiting that thing,
 - (b) references to remedying a failure include mitigating its effect, and
 - (c) references to dealing with assets include disposing of them.]

Textual Amendments

- F21** S. 202A inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(7)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

Miscellaneous

203 Fees

- (1) The Bank of England may require operators of recognised inter-bank payment systems to pay fees.
- (2) A requirement under subsection (1) must relate to a scale of fees approved by the Treasury by regulations.
- (3) Regulations under subsection (2)—
 - (a) shall be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A requirement under subsection (1) may be enforced by the Bank as a debt.

Commencement Information

- I22** S. 203 in force at 12.11.2009 for specified purposes and 31.12.2009 in so far as not already in force by [S.I. 2009/3000](#), [arts. 2, 4](#), [Sch. para. 3](#)

[^{F22}203A] Records

- (1) The Bank of England must maintain satisfactory arrangements for—
 - (a) recording decisions made in the exercise of its functions under this Part, and
 - (b) the safe-keeping of those records which it considers ought to be preserved.
- (2) The duty in subsection (1) does not apply to a decision to issue a notice under section 204(1).

Status: Point in time view as at 01/03/2017.

Changes to legislation: Banking Act 2009, Part 5 is up to date with all changes known to be in force on or before 12 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F22 Ss. 203A, 203B inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(8)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

203B Annual report

- (1) At least once a year the Bank of England must make a report to the Treasury on—
 - (a) the discharge of its functions under this Part,
 - (b) the extent to which, in its opinion, in discharging those functions its financial stability objective has been met, and
 - (c) such other matters as the Treasury may from time to time direct.
- (2) Subsection (1) does not require the inclusion in the report of any information whose publication would in the opinion of the Bank of England be against the public interest.
- (3) The Treasury must lay before Parliament a copy of each report received by them under this section.]

Textual Amendments

F22 Ss. 203A, 203B inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(8)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

204 Information

- (1) The Bank of England may by notice in writing require a person to provide information—
 - (a) which the Bank thinks will help the Treasury in determining whether to make a recognition order [^{F23}or an order under section 206A], or
 - (b) which the Bank otherwise requires in connection with its functions under this Part.

[^{F24}(1A) The Bank of England may by notice in writing require the operator of a recognised inter-bank payment system to provide information which the Bank requires in connection with the exercise of its functions (whether under this Part or otherwise) in pursuance of its financial stability objective.]

- (2) In particular, a notice [^{F25}under subsection (1) or (1A)] may require the operator of a recognised inter-bank payment system to notify the Bank if events of a specified kind occur.
- (3) A notice [^{F26}under subsection (1) or (1A)] may require information to be provided—
 - (a) in a specified form or manner;
 - (b) at a specified time;
 - (c) in respect of a specified period.
- (4) The Bank may disclose information obtained by virtue of this section to—
 - (a) the Treasury;
 - [^{F27}(b) the FCA;
 - ^{F28}(ba)]

Status: Point in time view as at 01/03/2017.

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- (c) an authority in a country or territory outside the United Kingdom which exercises functions similar to those of the Treasury, the Bank of England^{F29}, the FCA or the PRA] in relation to inter-bank payment systems;
 - (d) the European Central Bank;
 - (e) the Bank for International Settlements.
- (5) Subsection (4)—
- (a) overrides a contractual or other requirement to keep information in confidence, and
 - (b) is without prejudice to any other power to disclose information.
- (6) The Treasury may by regulations permit the disclosure of information obtained by virtue of this section to a specified person.
- (7) The Bank may publish information obtained by virtue of this section.
- (8) The Treasury may make regulations about the manner and extent of publication under subsection (7).
- (9) Regulations under this section—
- (a) shall be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) It is an offence—
- (a) to fail without reasonable excuse to comply with a requirement under this section;
 - (b) knowingly or recklessly to give false information in pursuance of this section.
- (11) A person guilty of an offence is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

Textual Amendments

- F23** Words in s. 204(1)(a) inserted (8.4.2010) by [Financial Services Act 2010 \(c. 28\), s. 26\(1\)\(l\), Sch. 2 para. 45](#)
- F24** S. 204(1A) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(9\)\(a\), 122\(3\)](#) (with Sch. 20); [S.I. 2013/423, art. 3, Sch.](#)
- F25** Words in s. 204(2) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(9\)\(b\), 122\(3\)](#) (with Sch. 20); [S.I. 2013/423, art. 3, Sch.](#)
- F26** Words in s. 204(3) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(9\)\(b\), 122\(3\)](#) (with Sch. 20); [S.I. 2013/423, art. 3, Sch.](#)
- F27** S. 204(4)(b)(ba) substituted for s. 204(4)(b) (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(9\)\(c\), 122\(3\)](#) (with Sch. 20); [S.I. 2013/423, art. 3, Sch.](#)
- F28** S. 204(4)(ba) omitted (1.3.2017) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\), s. 41\(3\), Sch. 2 para. 60](#) (with Sch. 3); [S.I. 2017/43, reg. 2\(g\)](#)
- F29** Words in s. 204(4)(c) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 104\(9\)\(d\), 122\(3\)](#) (with Sch. 20); [S.I. 2013/423, art. 3, Sch.](#)

Commencement Information

- I23** S. 204(1)(a)(2)(3)(4)(a)(b)(5)(6)(8)-(11) in force at 4.8.2009 by [S.I. 2009/2038, art. 2, Sch. para. 4](#)

Status: Point in time view as at 01/03/2017.

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I24 S. 204(1)(b)(4)(c)(4)(d)(4)(e)(7) in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, [Sch. para. 4](#)

205 Pretending to be recognised

- (1) It is an offence for the operator of a non-recognised inter-bank payment system—
 - (a) to assert that the system is recognised, or
 - (b) to do anything which suggests that the system is recognised.
- (2) A person guilty of an offence is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

Commencement Information

I25 S. 205 in force at 4.8.2009 by [S.I. 2009/2038](#), art. 2, [Sch. para. 5](#)

206 Saving for informal oversight

- (1) Nothing in this Part prevents the Bank of England from having dealings with the operators of payment systems to which this Part does not apply.
- (2) Nothing in this Part prevents the Bank from having dealings, other than through the provisions of this Part, with the operators of payment systems to which this Part does apply.

Commencement Information

I26 S. 206 in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, [Sch. para. 5](#)

[^{F30}206A Services forming part of recognised inter-bank payment systems

- (1) The Treasury may by order make provision applying any provision of this Part to persons who are service providers in relation to a recognised inter-bank payment system.
- (2) A person is a service provider in relation to a recognised inter-bank payment system if—
 - (a) the person provides services that form part of the arrangements constituting the system, and
 - (b) the person is specified as a person within paragraph (a) by the Treasury in the recognition order made in respect of the system.
- (3) Telecommunication or information technology services are examples of the kind of services that may fall within subsection (2)(a).
- (4) Before specifying persons under subsection (2)(b), the Treasury must—
 - (a) consult the Bank of England^{F31}, the FCA and the PRA],
 - (b) notify the operator of the system and the persons whom the Treasury proposes to specify, and
 - (c) consider any representations made.

Status: Point in time view as at 01/03/2017.

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- (5) The Treasury may not specify the Bank of England under subsection (2)(b).
- (6) Before making an order under subsection (1), the Treasury must consult—
 - (a) the Bank of England,
 - ^{F32}(b) the FCA,
 - (ba) the PRA, and]
 - (c) such other persons as the Treasury consider appropriate.
- (7) An order under subsection (1)—
 - (a) may modify any provision of this Part in its application to persons who are service providers in relation to a recognised inter-bank payment system;
 - (b) may (but need not) take the form of textual amendment.
- (8) An order under subsection (1)—
 - (a) is to be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.]

Textual Amendments

- F30** S. 206A inserted (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), **ss. 20**, 26(1)(f)
- F31** Words in s. 206A(4)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(10)(a)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F32** S. 206A(6)(b)(ba) substituted for s. 206A(6)(b) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(10)(b)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

^{F33}**206B International obligations**

- (1) If it appears to the Treasury that any action proposed to be taken by the Bank of England in exercising its powers under this Part would be incompatible with EU obligations or any other international obligations of the United Kingdom, the Treasury may direct the Bank not to take that action.
- (2) If it appears to the Treasury that any action which the Bank of England has power under this Part to take is required for the purpose of implementing any such obligation, the Treasury may direct the Bank to take that action.
- (3) A direction under this section—
 - (a) may include such supplemental or incidental requirements as the Treasury consider necessary or expedient, and
 - (b) is enforceable on an application by the Treasury, by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.]

Textual Amendments

- F33** S. 206B inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 105**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

Status:

Point in time view as at 01/03/2017.

Changes to legislation:

Banking Act 2009, Part 5 is up to date with all changes known to be in force on or before 12 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.