



Banking Act 2009

2009 CHAPTER 1

PART 3

BANK ADMINISTRATION

Introduction

138 Objective 1: supporting private sector purchaser or [F¹resolution company]

- (1) Objective 1 is to ensure the supply to the private sector purchaser or [F²resolution company] of such services and facilities as are required to enable it, in the opinion of the Bank of England, to operate effectively.
- (2) For the purposes of Objective 1—
 - (a) the reference to services and facilities includes a reference to acting as transferor or transferee under a supplemental or reverse property transfer instrument [F³(including a bridge bank supplemental property transfer instrument or bridge bank supplemental reverse property transfer instrument)], and
 - (b) the reference to “supply” includes a reference to supply by persons other than the residual bank.
- (3) In the case of bank administration following a private sector purchase the bank administrator must co-operate with any request of the Bank of England to enter into an agreement for the residual bank to provide services or facilities to the private sector purchaser; and—
 - (a) in pursuing Objective 1 the bank administrator must have regard to the terms of that or any other agreement entered into between the residual bank and the private sector purchaser,
 - (b) in particular, the bank administrator must avoid action that is likely to prejudice performance by the residual bank of its obligations in accordance with those terms,

Status: Point in time view as at 16/12/2016.

Changes to legislation: Banking Act 2009, Section 138 is up to date with all changes known to be in force on or before 16 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)

- (c) if in doubt about the effect of those terms the bank administrator may apply to the court for directions under paragraph 63 of Schedule B1 to the Insolvency Act 1986 (applied by section 145 below), and
 - (d) the private sector purchaser may refer to the court a dispute about any agreement with the residual bank, by applying for directions under paragraph 63 of Schedule B1.
- (4) In the case of bank administration following transfer to a [^{F4}resolution company], the bank administrator must co-operate with any request of the Bank of England to enter into an agreement for the residual bank to provide services or facilities to the [^{F4}resolution company]; and—
- (a) the bank administrator must avoid action that is likely to prejudice performance by the residual bank of its obligations in accordance with an agreement,
 - (b) the bank administrator must ensure that so far as is reasonably practicable an agreement entered into includes provision for consideration at market rate,
 - (c) paragraph (b) does not prevent the bank administrator from entering into an agreement on any terms that the bank administrator thinks necessary in pursuit of Objective 1, and
 - (d) this subsection does not apply after Objective 1 ceases.
- (5) Where a bank administrator requires the Bank of England's consent or approval to any action in accordance with this Part, the Bank may withhold consent or approval only on the grounds that the action might prejudice the achievement of Objective 1.

Textual Amendments

- F1** Words in s. 138 heading substituted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **26(4)(a)**
- F2** Words in s. 138(1) substituted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **26(4)(a)**
- F3** Words in s. 138(2)(a) inserted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **26(4)(b)**
- F4** Words in s. 138(4) substituted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **26(4)(a)**

Commencement Information

- I1** S. 138 in force at 21.2.2009 by [S.I. 2009/296](#), art. 3, **Sch. para. 3**

Status:

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