

FINANCIAL SERVICES ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Recovery and resolution plans (RRPs)

Section 7: Rules made by FSA about recovery and resolution plans

New section 139B - Rules about recovery plans

84. *Subsection (1)* places a duty on the FSA to make rules requiring persons authorised under FSMA to produce and maintain a recovery plan in accordance with the requirements set out in the rules. Subject to subsection (8), this requirement can apply to all authorised persons or the FSA can exercise discretion over which authorised persons are required to produce a recovery plan by specifying the firms to which the rules apply. This will allow for gradual implementation, focusing on the largest, most complex and systemically significant firms in the first instance.
85. *Subsections (2), (3) and (4)* define a ‘recovery plan’ for the purposes of the new provisions. A recovery plan aims to reduce the likelihood of failure of a firm by setting out what the authorised person would do in, or prior to it becoming subject to, stressed circumstances (which the FSA may specify in its rules) that would affect the ability of the authorised person to carry on all or a specified part of its business. Action described in the plan may include the restructuring, scaling back or sale of certain business lines or assets of the authorised person in question and the subsection therefore refers to the business not necessarily having to be carried on in the same way or by the same person. The plan is not to be for the purpose of helping an authorised person to plan for avoiding getting into difficult circumstances, but about what planning they can do to enable them to recover should they encounter such circumstances.
86. *Subsection (5)* requires the FSA to consider whether each recovery plan required by rules under subsection (1) makes satisfactory provision in relation to those matters that the plan is required to cover.
87. *Subsection (6)* provides that where the FSA considers that a recovery plan fails to make satisfactory provision in relation to those matters, the FSA must take such steps as it considers appropriate to deal with the failure. *Subsection (7)* makes clear that the steps the FSA may take include requiring the revision of the relevant recovery plan.
88. *Subsection (8)* requires the FSA to make general rules about recovery plans that apply to authorised persons in relation to whom any power under Part 1 of the Banking Act 2009 may be exercised. The FSA is required by *subsection (9)* to consult the Treasury and Bank of England before preparing a draft of those general rules.