



# Financial Services Act 2012

## 2012 CHAPTER 21

VALID FROM 24/01/2013

### PART 1

#### BANK OF ENGLAND

VALID FROM 19/02/2013

#### **1 Deputy Governors**

(1) In section 1 of the Bank of England Act 1998 (court of directors), for subsections (2) and (2A) substitute—

“(2) The court shall consist of the following directors appointed by Her Majesty—

- (a) a Governor,
- (b) a Deputy Governor for financial stability,
- (c) a Deputy Governor for monetary policy,
- (d) a Deputy Governor for prudential regulation, and
- (e) not more than 9 non-executive directors.”

(2) In section 13 of that Act (Monetary Policy Committee), in subsection (2), for paragraph (a) substitute—

- “(a) the Governor of the Bank,
- (aa) the Deputy Governor for financial stability,
- (ab) the Deputy Governor for monetary policy.”

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VALID FROM 01/04/2013

## 2 The Bank's financial stability objective

- (1) Section 2A of the Bank of England Act 1998 (Financial Stability Objective) is amended as follows.
- (2) In subsection (1)—
  - (a) for “contribute to protecting and enhancing” substitute “ protect and enhance ”, and
  - (b) for “systems” substitute “ system ”.
- (3) In subsection (2), for “and the Financial Services Authority)” substitute “ , the Financial Conduct Authority and the Prudential Regulation Authority) ”.
- (4) Omit subsection (3) (which is superseded by the amendments made by section 4 of this Act).

VALID FROM 01/04/2013

## 3 Oversight Committee

- (1) The Bank of England Act 1998 is amended as follows.
- (2) For section 3 substitute—

### “3A Oversight Committee

- (1) There is to be a sub-committee of the court of directors of the Bank (“the Oversight Committee”) consisting of the non-executive directors of the Bank.
- (2) The functions of the Oversight Committee are—
  - (a) keeping under review the Bank's performance in relation to—
    - (i) the Bank's objectives (that is, the objectives specified in relation to it in this Act and the other objectives for the time being determined by the court of directors of the Bank),
    - (ii) the duty of the Financial Policy Committee under section 9C, and
    - (iii) the Bank's strategy as for the time being determined by the court of directors of the Bank (including its financial stability strategy);
  - (b) monitoring the extent to which the objectives set by the court of directors of the Bank in relation to the Bank's financial management have been met;
  - (c) keeping under review the internal financial controls of the Bank with a view to securing the proper conduct of its financial affairs;
  - (d) the functions conferred on the Oversight Committee by the provisions listed in subsection (4).

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- (3) The court of directors of the Bank may arrange for specified functions of the Bank to be discharged by the Oversight Committee.
- (4) The provisions referred to in subsection (2)(d) are—
  - (a) section 9B (review of procedures followed by Financial Policy Committee);
  - (b) section 16 (review of procedures followed by Monetary Policy Committee);
  - (c) paragraph 14 of Schedule 1 (remuneration of Governor and Deputy Governors);
  - (d) paragraph 5 of Schedule 2A (terms and conditions of office of members of Financial Policy Committee appointed under section 9B(1)(e));
  - (e) paragraph 9 of that Schedule (removal of members of Financial Policy Committee appointed under section 9B(1)(d) or (e));
  - (f) paragraph 4(2) of Schedule 3 (terms and conditions of office of members of Monetary Policy Committee appointed under section 13(2)(c));
  - (g) paragraph 9 of that Schedule (removal of members of Monetary Policy Committee appointed under section 13(2)(b) or (c));
  - (h) paragraph 15 of Schedule 1ZB to the Financial Services and Markets Act 2000 (terms of service and remuneration of members of the governing body of the Prudential Regulation Authority).

### **3B Oversight Committee: procedure**

- (1) The chair of the court (designated under paragraph 13 of Schedule 1) is to chair meetings of the Oversight Committee (when present).
- (2) The Committee is to determine its own procedure, but this is subject to subsection (1) and subsection (5).
- (3) The Committee may invite other persons to attend, or to attend and speak at, any meeting of the Committee.
- (4) The Committee may delegate any of its functions to two or more of its members.
- (5) If a member of the Committee (“M”) has any direct or indirect interest (including any reasonably likely future interest) in any dealing or business which falls to be considered by the Committee—
  - (a) M must disclose that interest to the Committee when it considers that dealing or business, and
  - (b) the Committee must decide whether M is to be permitted to participate in any proceedings of the Committee relating to any question arising from its consideration of the dealing or business, and if so to what extent and subject to what conditions (if any).

### **3C Reviews**

- (1) In the discharge of any of its functions, the Oversight Committee may arrange—

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- (a) for a review to be conducted under this section in relation to any matter by a person appointed by the Committee, and
  - (b) for the person conducting the review to make one or more reports to the Committee.
- (2) The persons who may be appointed to conduct a review include an officer or employee of the Bank.
- (3) A review under this section is a “performance review” if it—
  - (a) is arranged by the Committee in the discharge of any of its functions under section 3A(2)(a) and (b), and
  - (b) relates to past events.
- (4) If the person to be appointed to conduct a performance review is an officer or employee of the Bank, the appointment requires the consent of the Governor of the Bank.
- (5) In the case of a performance review, the Committee must have regard to the desirability of ensuring that sufficient time has elapsed—
  - (a) for the review to be effective, and
  - (b) to avoid the review having a material adverse effect on the exercise by the Bank of its functions.

### **3D Publication of reports of performance reviews**

- (1) The Bank must give the Treasury a copy of any report made to the Oversight Committee by a person appointed under section 3C to conduct a performance review (as defined by subsection (3) of that section).
- (2) Subject to subsection (3), the Bank must also publish the report.
- (3) Subsection (2) does not require the publication of information whose publication at the time when the report is made would in the opinion of the court of directors of the Bank be against the public interest.
- (4) Where the court of directors decides under subsection (3) that publication of information at the time when the report is made would be against the public interest, it must keep under consideration the question of whether publication of the information would still be against the public interest.
- (5) Where the court of directors decides that publication of any information is no longer against the public interest, the Bank must publish the information.
- (6) The Treasury must lay before Parliament a copy of any report or other information published by the Bank under this section.

### **3E Recommendations resulting from review**

- (1) This section applies where a report made by a person appointed under section 3C to conduct a review makes recommendations to the Bank as to steps to be taken by it.
- (2) The Oversight Committee must—
  - (a) monitor the Bank's response to the report, and

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- (b) if or to the extent that the Bank accepts the recommendations, monitor the implementation of the recommendations.

### **3F Oversight Committee: further provisions**

- (1) The documents to which the Oversight Committee is to have access in the discharge of its functions include documents considered, or to be considered, by the Financial Policy Committee or the Monetary Policy Committee.
- (2) One or two members of the Oversight Committee may attend any meeting of the Financial Policy Committee or the Monetary Policy Committee, but a person attending by virtue of this subsection may not speak unless invited to do so by the person chairing the meeting.
- (3) Subsection (2) does not affect—
- (a) anything done in relation to the Financial Policy Committee by a member of that Committee who is also a member of the Oversight Committee,
  - (b) the powers of the Financial Policy Committee under paragraph 13 of Schedule 2A, or
  - (c) the powers of the Monetary Policy Committee under paragraph 13A of Schedule 3.”
- (3) In section 4 (annual report by the Bank), in subsection (2), for paragraph (a) substitute—
- “(a) a report by the Oversight Committee on the matters for which it is responsible, and”.
- (4) In section 16 (functions of court of directors)—
- (a) in subsection (1), for “court of directors of the Bank” substitute “Oversight Committee”,
  - (b) in subsection (2)—
    - (i) for “the court's function” substitute “the function of the Oversight Committee”, and
    - (ii) for “the Committee” substitute “the Monetary Policy Committee”
  - (c) omit subsection (3), and
  - (d) accordingly, in the heading, for “court of directors” substitute “Oversight Committee”.

## **4 Financial stability strategy and Financial Policy Committee**

- (1) After Part 1 of the Bank of England Act 1998 insert—

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## “PART 1A

### FINANCIAL STABILITY

#### *Financial stability strategy of the Bank*

#### 9A **Financial stability strategy**

- (1) The court of directors must—
  - (a) determine the Bank's strategy in relation to the Financial Stability Objective (its “financial stability strategy”), and
  - (b) from time to time review, and if necessary revise, the strategy.
- (2) Before determining or revising the Bank's financial stability strategy, the court of directors must consult about a draft of the strategy or of the revisions—
  - (a) the Financial Policy Committee, and
  - (b) the Treasury.
- (3) The Financial Policy Committee may at any time make recommendations to the court of directors as to the provisions of the Bank's financial stability strategy.
- (4) The court of directors must determine the financial stability strategy of the Bank within 6 months of the coming into force of this section.
- (5) The court of directors must carry out and complete a review of the Bank's financial stability strategy before the end of each relevant period.
- (6) The relevant period is 3 years beginning with the date on which the previous review was completed, except that in the case of the first review the relevant period is the period of 3 years beginning with the date on which the strategy was determined under subsection (4).
- (7) The Bank must publish its financial stability strategy.
- (8) If the financial stability strategy is revised, the Bank must publish the revised strategy.
- (9) Publication under subsection (7) or (8) is to be in such manner as the Bank thinks fit.

#### *Financial Policy Committee of the Bank*

#### 9B **Financial Policy Committee**

- (1) There is to be a sub-committee of the court of directors of the Bank (the “Financial Policy Committee”) consisting of—
  - (a) the Governor of the Bank,
  - (b) the Deputy Governors of the Bank,
  - (c) the Chief Executive of the FCA,

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- (d) one member appointed by the Governor of the Bank after consultation with the Chancellor of the Exchequer,
  - (e) 4 members appointed by the Chancellor of the Exchequer, and
  - (f) a representative of the Treasury.
- (2) The member appointed under subsection (1)(d) is to be a person who has executive responsibility within the Bank for the analysis of threats to financial stability.
- (3) Before appointing a person under subsection (1)(e), the Chancellor of the Exchequer must—
- (a) be satisfied that the person has knowledge or experience which is likely to be relevant to the Committee's functions, and
  - (b) consider whether the person has any financial or other interests that could substantially affect the functions as member that it would be proper for the person to discharge.
- (4) The Oversight Committee must keep the procedures followed by the Financial Policy Committee under review.
- (5) Schedule 2A has effect with respect to the Financial Policy Committee.

### 9C Objectives of the Financial Policy Committee

- (1) The Financial Policy Committee is to exercise its functions with a view to—
- (a) contributing to the achievement by the Bank of the Financial Stability Objective, and
  - (b) subject to that, supporting the economic policy of Her Majesty's Government, including its objectives for growth and employment.
- (2) The responsibility of the Committee in relation to the achievement by the Bank of the Financial Stability Objective relates primarily to the identification of, monitoring of, and taking of action to remove or reduce, systemic risks with a view to protecting and enhancing the resilience of the UK financial system.
- (3) Those systemic risks include, in particular—
- (a) systemic risks attributable to structural features of financial markets, such as connections between financial institutions,
  - (b) systemic risks attributable to the distribution of risk within the financial sector, and
  - (c) unsustainable levels of leverage, debt or credit growth.
- (4) Subsections (1)(a) and (2) do not require or authorise the Committee to exercise its functions in a way that would in its opinion be likely to have a significant adverse effect on the capacity of the financial sector to contribute to the growth of the UK economy in the medium or long term.
- (5) In this Part “systemic risk” means a risk to the stability of the UK financial system as a whole or of a significant part of that system.
- (6) For the purposes of subsection (5) it is immaterial whether the risk arises in the United Kingdom or elsewhere.

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(7) In subsection (3)(c)—

“credit growth” means the growth in lending by the financial sector to individuals in the United Kingdom and businesses carried on in the United Kingdom;

“debt” means debt owed to the financial sector by individuals in the United Kingdom and businesses carried on in the United Kingdom;

“leverage” means the leverage of the financial sector in the United Kingdom.

**9D Specification of matters relevant to economic policy**

- (1) The Treasury may by notice in writing to the Financial Policy Committee specify for the purposes of section 9C(1)(b) what the economic policy of Her Majesty's Government is to be taken to be.
- (2) The Treasury must specify under subsection (1) the matter mentioned there—
  - (a) before the end of the period of 30 days beginning with the day on which section 9C comes into force, and
  - (b) at least once in every calendar year following that in which the first notice under that subsection is given.
- (3) Where the Treasury give notice under this section they must—
  - (a) publish the notice in such manner as they think fit, and
  - (b) lay a copy of it before Parliament.

**9E Recommendations by Treasury**

- (1) The Treasury may at any time by notice in writing to the Financial Policy Committee make recommendations to the Committee about—
  - (a) matters that the Committee should regard as relevant to the Committee's understanding of the Bank's Financial Stability Objective;
  - (b) the responsibility of the Committee in relation to the achievement of that objective;
  - (c) the responsibility of the Committee in relation to support for the economic policy of Her Majesty's Government, including its objectives for growth and employment;
  - (d) matters to which the Committee should have regard in exercising its functions.
- (2) The Treasury must make recommendations under subsection (1)(a) or (b) (“recommendations about the objective”)—
  - (a) before the end of the period of 30 days beginning with the day on which this section comes into force, and
  - (b) at least once in every calendar year following that in which the first recommendations about the objective are made.



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- (3) The Committee must respond to any recommendations made to it under subsection (1) by notifying the Treasury, in relation to each recommendation, of one or more of the following—
  - (a) action that the Committee has taken in accordance with the recommendation;
  - (b) if or to the extent that the recommendation does not relate to immediate action, the Committee's intention to act in accordance with it;
  - (c) whether or not the recommendation relates to immediate action, the Committee's reasons for not intending to act in accordance with it.
- (4) Notification under subsection (3) must be given or confirmed in writing.
- (5) The Treasury must—
  - (a) publish in such manner as they think fit any notice given under subsection (1) or notification received under subsection (3), and
  - (b) lay a copy of it before Parliament.

#### 9F Other general duties

- (1) In the exercise of its functions, other than its functions under section 9A(2) or (3), the Financial Policy Committee must have regard to the Bank's financial stability strategy.
- (2) In working with the FCA or the PRA or exercising functions in relation to either of them, the Committee must, so far as it is possible to do so while complying with section 9C(1), seek to avoid exercising the Committee's functions in a way that would prejudice—
  - (a) the advancement by the FCA of any of its operational objectives, or
  - (b) the advancement by the PRA of any of its objectives.
- (3) In the exercise of its functions, the Committee must also have regard to—
  - (a) the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction;
  - (b) the contribution to the achievement by the Bank of the Financial Stability Objective that the Committee can make by disclosing its views about possible systemic risks or disclosing other information about possible systemic risks;
  - (c) the international obligations of the United Kingdom, particularly where relevant to the exercise of the powers of the Committee in relation to the FCA or the PRA.

#### 9G Functions of the Financial Policy Committee

- (1) The functions of the Financial Policy Committee are—
  - (a) monitoring the stability of the UK financial system with a view to identifying and assessing systemic risks;
  - (b) giving directions under section 9H;
  - (c) making recommendations under sections 9O to 9R;

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(d) preparing financial stability reports under section 9W.

- (2) The court of directors may, with the consent of the Treasury, arrange for specified functions of the Bank to be discharged by the Financial Policy Committee.

*Directions by Financial Policy Committee*

**9H Directions to FCA or PRA requiring macro-prudential measures**

- (1) The Financial Policy Committee may give a direction to the FCA or the PRA (“the regulator”) requiring the regulator to exercise its functions so as to ensure the implementation, by or in relation to a specified class of regulated persons, of a macro-prudential measure described in the direction.
- (2) “Regulated person” means—
- (a) in relation to the FCA—
    - (i) an authorised person within the meaning of FSMA 2000,
    - (ii) a recognised investment exchange within the meaning of that Act, or
    - (iii) an EEA market operator as defined by section 312D of that Act;
  - (b) in relation to the PRA, a PRA-authorised person within the meaning of that Act.
- (3) “Macro-prudential measure” is to be read in accordance with section 9L.
- (4) The direction may relate to all regulated persons or to regulated persons of a specified description, but may not relate to a specified regulated person.
- (5) The direction—
- (a) may refer to the opinion of the regulator or require or authorise the exercise of a discretion by the regulator;
  - (b) may be expressed to remain in force for a specified period or until revoked.
- (6) The direction may not require its provisions to be implemented by specified means or within a specified period, but may include recommendations as to the means to be used and the timing of implementation.
- (7) A recommendation made under subsection (6) may be expressed to be one to which section 9Q(3) (duty to comply or explain) applies.
- (8) The direction may not require the regulator to do anything that it has no power to do, but the existence of the direction is relevant to the exercise of any discretion conferred on the regulator.
- (9) The direction may specify particular matters to which the regulator is or is not to have regard in complying with the direction, but those matters must be specified in relation to all regulated persons or a class of regulated person rather than a specified regulated person.

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- (10) The direction may refer to a publication issued by the FCA, the PRA, another body in the United Kingdom or an international organisation, as the publication has effect from time to time.

**9I Compliance with directions under section 9H**

- (1) The regulator must comply with a direction given to it under section 9H as soon as reasonably practicable.
- (2) An order under section 9L may, in relation to cases where the regulator is complying with a direction under section 9H, exclude or modify any procedural requirement that would otherwise apply under FSMA 2000 in relation to the exercise by the regulator of its functions in pursuance of the direction.
- (3) The regulator to which a direction under section 9H is given must give the Financial Policy Committee one or more reports on how it is complying or has complied with the direction.
- (4) The Financial Policy Committee may give directions to the regulator specifying the times by which reports required by subsection (3) must be given to the Committee.
- (5) “Regulator” has the same meaning as in section 9H.

**9J Revocation of directions under section 9H**

- (1) The Financial Policy Committee may at any time by notice to the regulator revoke a direction under section 9H.
- (2) A direction under section 9H is to be taken to be revoked if the measure to which it relates ceases to be a macro-prudential measure, but this is subject to any provision made under section 9L(4)(e).
- (3) The revocation of a direction under section 9H does not affect the validity of anything previously done in accordance with it.
- (4) “Regulator” has the same meaning as in section 9H.

**9K Further provisions about directions under section 9H**

- (1) Each of the following must be in writing—
- (a) a direction under section 9H;
  - (b) a notice revoking such a direction;
  - (c) a report under section 9I(3).
- (2) The Financial Policy Committee must give the Treasury a copy of any direction under section 9H or any notice revoking such a direction.
- (3) The Treasury may, if they think fit, lay before Parliament a copy of a direction under section 9H or a notice revoking such a direction.
- (4) Where a direction under section 9H, or a notice revoking such a direction, is included in a record published under section 9U, the Treasury must, if they

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have not already done so, lay before Parliament a copy of the direction or notice in the form in which it is published in the record.

#### **9L Macro-prudential measures**

- (1) For the purposes of section 9H a “macro-prudential measure” is a measure prescribed by the Treasury by order.
- (2) Before making an order under this section, the Treasury must—
  - (a) consult the Financial Policy Committee, or
  - (b) if the Treasury consider that the delay involved in consulting the Committee would be prejudicial to the stability of the UK financial system, consult the Governor of the Bank.
- (3) In prescribing a measure, the order must specify whether the measure is prescribed in relation to the FCA, the PRA, or both.
- (4) An order under this section—
  - (a) may make different provision for different cases;
  - (b) may confer a discretion on the Financial Policy Committee, the FCA or the PRA;
  - (c) may refer to rules made by the FCA or the PRA;
  - (d) may refer to a publication issued by the FCA, the PRA, another body in the United Kingdom or an international organisation, as the publication has effect from time to time;
  - (e) may contain transitional provisions and savings relating to the coming into force of any provision of the order or to the ceasing to be in force of any temporary provision made by the order.

#### **9M Statements of policy by Financial Policy Committee**

- (1) In relation to each macro-prudential measure prescribed under section 9L, the Financial Policy Committee must prepare and maintain a written statement of the general policy that it proposes to follow in relation to the exercise of its power of direction under section 9H so far as it relates to that measure.
- (2) The Committee may at any time alter or replace a statement maintained under this section.
- (3) The Bank must publish each statement maintained under this section.
- (4) Publication is to be in such manner as the Bank thinks fit.
- (5) Nothing in this section is to be regarded as preventing the Financial Policy Committee from exercising its power of direction under section 9H in relation to a macro-prudential measure, where it considers it necessary to do so by reason of urgency, before it has prepared a statement under this section in relation to that measure.

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#### **9N Parliamentary control of orders under section 9L**

- (1) Except as provided by subsection (2), an order under section 9L is not to be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.
- (2) An order under section 9L may be made without a draft having been laid and approved as mentioned in subsection (1) if the order contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without a draft being so laid and approved.
- (3) An order under section 9L made in accordance with subsection (2)—
  - (a) must be laid before Parliament after being made, and
  - (b) ceases to have effect at the end of the relevant period unless before the end of that period the order is approved by a resolution of each House of Parliament (but without affecting anything done under the order or the power to make a new order).
- (4) The “relevant period” is a period of 28 days beginning with the day on which the order is made.
- (5) In reckoning the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than 4 days.

*Recommendations by Financial Policy Committee*

#### **9O Making of recommendations within the Bank**

- (1) The Financial Policy Committee may make recommendations within the Bank.
- (2) The recommendations may, in particular, relate to—
  - (a) the provision by the Bank of financial assistance to financial institutions;
  - (b) the exercise by the Bank of its functions in relation to payment systems, settlement systems and clearing houses.
- (3) The Committee may not make recommendations about—
  - (a) the provision by the Bank of financial assistance in relation to a particular financial institution, or
  - (b) the exercise by the Bank of its powers under Parts 1 to 3 of the Banking Act 2009 in relation to a particular institution.
- (4) The recommendations must be made or confirmed in writing.

#### **9P Recommendations to Treasury**

- (1) The Financial Policy Committee may make recommendations to the Treasury.

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- (2) The recommendations may, in particular, relate to the exercise by the Treasury of their power to make orders under—
  - (a) section 9L (macro-prudential measures),
  - (b) section 22(1) or (1A) of FSMA 2000 (regulated activities),
  - (c) section 22A(1) of that Act (designation of activities requiring prudential regulation by PRA),
  - (d) section 137D(1)(b) of that Act (purposes for which FCA may make product intervention rules), or
  - (e) section 165A(2)(d) of that Act (additional persons who may be required by PRA to provide information).
- (3) The recommendations must be made or confirmed in writing.
- (4) The Committee may make a recommendation under subsection (2)(e) only if it considers that the exercise by the Treasury of their power to make an order under section 165A(2)(d) of FSMA 2000 in the manner proposed is desirable for the purposes of the exercise by the Committee of its functions.
- (5) Before giving a recommendation under subsection (2)(e), the Committee must consult the Treasury.

#### **9Q Recommendations to FCA and PRA**

- (1) The Financial Policy Committee may make recommendations to the FCA and the PRA about the exercise of their respective functions.
- (2) The recommendations may relate to all regulated persons or to regulated persons of a specified description, but may not relate to the exercise of the functions of the FCA or the PRA in relation to a specified regulated person.
- (3) If the recommendations are expressed to be recommendations to which this subsection applies, the body to which they are made must as soon as reasonably practicable—
  - (a) act in accordance with the recommendations, or
  - (b) if to any extent it does not, notify the Committee of the extent to which it has not acted in accordance with the recommendations and of the reasons for its decision.
- (4) The recommendations, and any notification under subsection (3)(b), must be made or confirmed in writing.
- (5) “Regulated person” has the same meaning as in section 9H.

#### **9R Recommendations to other persons**

- (1) The Financial Policy Committee may make recommendations to persons other than those mentioned in sections 9O to 9Q.
- (2) The recommendations must be made or confirmed in writing.

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### *Explanation*

#### **9S Duty to prepare explanation**

- (1) In connection with the exercise of any of the specified powers, the Financial Policy Committee must prepare an explanation of—
  - (a) the reasons for the Committee's decision to exercise the power, in the way in which it is being exercised, and
  - (b) the Committee's reasons for believing that the exercise of the power, in the way in which it is being exercised, is compatible with the duties of the Committee under the following provisions—
    - (i) section 9C(1) (as read with section 9C(4)), and
    - (ii) section 9F.
- (2) The specified powers are—
  - (a) the power to give a direction under section 9H;
  - (b) the power to make recommendations under section 9O, so far as relating to the exercise of the Bank's functions in relation to payment systems, settlement systems and clearing houses;
  - (c) the power to make recommendations under section 9P, so far as relating to the exercise by the Treasury of their power to make orders under any of the provisions mentioned in subsection (2) of that section;
  - (d) the power to make recommendations under section 9Q.
- (3) The explanation required by subsection (1) in relation to the duty in section 9F(3)(a) must include an estimate of the costs and an estimate of the benefits that would arise from compliance with the direction or recommendation in question, unless in the opinion of the Committee it is not reasonably practicable to include such an estimate.

### *Review*

#### **9T Duty to review directions and recommendations**

- (1) The Financial Policy Committee must—
  - (a) before the end of each review period, review each direction given by it under section 9H, other than a direction revoked before the end of the review period, and
  - (b) prepare a summary of its conclusions.
- (2) A review period is—
  - (a) in relation to the first review, the period of 12 months beginning with the day on which the direction was given, and
  - (b) in relation to subsequent reviews, the period of 12 months beginning with the day on which the previous review was completed.
- (3) The Financial Policy Committee must maintain arrangements for the review at regular intervals of any recommendations that it has made under any of sections 9O to 9R and are of continuing relevance.

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- (4) The purpose of a review is—
  - (a) in the case of a direction, to consider whether the direction ought to be revoked, and
  - (b) in the case of a recommendation, to consider whether the recommendation ought to be withdrawn.

*Publication of record of meetings*

**9U Publication of record of meetings**

- (1) The Bank must publish a record of each meeting of the Financial Policy Committee before the end of the period of 6 weeks beginning with the day of the meeting.
- (2) The record must specify any decisions taken at the meeting (including decisions to take no action) and must set out, in relation to each decision, a summary of the Committee's deliberations.
- (3) The decisions referred to in subsection (2) include in particular a decision—
  - (a) to give or revoke a direction under section 9H;
  - (b) to make recommendations under any of sections 9O to 9R.
- (4) Where a decision has been made to give or revoke a direction under section 9H, the record must include the text of the direction or of the notice of revocation.
- (5) Where a decision has been made to make recommendations under any of sections 9O to 9R, the record must include the recommendations.
- (6) Where since the previous meeting the Committee has received a notification under section 9Q(3)(b), the record must include the notification.
- (7) The information required by subsections (1) and (2) does not include information identifying particular members of the Committee.
- (8) Subsections (1) to (6) do not require the publication of—
  - (a) information about any recommendations made under 9O(2)(a);
  - (b) information whose publication within the time required by subsection (1) would in the opinion of the Committee be against the public interest;
  - (c) information about any decision under paragraph (b);
  - (d) information about a decision to give a direction under section 9H which has been revoked before the record of the meeting at which it was given is published;
  - (e) information about the decision to revoke a direction where information about the direction is withheld under paragraph (d).
- (9) Publication under this section or section 9V is to be in such manner as the Bank thinks fit.



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## 9V Deferred publication

- (1) Where the Financial Policy Committee decides under subsection (8)(b) of section 9U that publication of information within the time required by subsection (1) of that section would be against the public interest—
  - (a) it must consider whether to fix a date as the earliest date on which the information may be published, and
  - (b) if it does not fix a date, it must keep under consideration the question whether publication of the information would still be against the public interest.
- (2) The Committee must from time to time determine the procedures that it will follow in complying with the duty in subsection (1)(b).
- (3) Where the Committee—
  - (a) fixes a date under subsection (1)(a) as the earliest date on which any information may be published, or
  - (b) decides under subsection (1)(b) that publication of any information is no longer against the public interest,the Bank must publish the information at the time when it next publishes under section 9U(1) the record of a meeting of the Committee.

### *Financial stability reports by Financial Policy Committee*

## 9W Financial stability reports by Financial Policy Committee

- (1) The Financial Policy Committee must prepare and publish reports relating to financial stability (“financial stability reports”).
- (2) Two financial stability reports must be published in each calendar year.
- (3) A financial stability report must include—
  - (a) the Committee's view of the stability of the UK financial system at the time when the report is prepared,
  - (b) an assessment of the developments that have influenced the current position,
  - (c) an assessment of the strengths and weaknesses of the UK financial system,
  - (d) an assessment of risks to the stability of the UK financial system, and
  - (e) the Committee's view of the outlook for the stability of the UK financial system.
- (4) A financial stability report must also include—
  - (a) a summary of the activities of the Committee in the reporting period, and
  - (b) an assessment of the extent to which the exercise by the Committee of its functions (both during the reporting period and previously) has succeeded during the reporting period in achieving the objectives set out in section 9C(1)(a) and (b).

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- (5) If during the reporting period the Committee has made any decision in relation to which section 9S requires the preparation of an explanation, the financial stability report must include the required explanation.
- (6) If during the reporting period the Committee has completed the review of a direction or recommendation, the financial stability report must include a summary of the review.
- (7) The reporting period is the period since the date of the previous financial stability report, except that in the case of the first financial stability report it is the period since the time when this section came fully into force.
- (8) Nothing in subsections (3) to (6) is to be regarded as requiring the Committee to include in a financial stability report any information whose publication would in the Committee's opinion be against the public interest.
- (9) The Committee must give a copy of each financial stability report to the Treasury.
- (10) The Treasury must lay before Parliament a copy of each financial stability report.
- (11) Publication of a financial stability report is to be in such manner as the Bank thinks fit.

*Meetings between Governor and Chancellor of the Exchequer*

**9X Meetings between Governor and Chancellor of the Exchequer**

- (1) As soon as reasonably practicable after the publication by the Financial Policy Committee of a financial stability report, the Governor of the Bank and the Chancellor of the Exchequer must meet to discuss the report and any other matters relating to the stability of the UK financial system that they consider it appropriate to discuss.
- (2) The Treasury must publish a record of each meeting required by subsection (1) before the end of the period of 6 weeks beginning with the day of the meeting.
- (3) Publication under subsection (2) is to be in such manner as the Treasury think fit.
- (4) Subsection (2) does not require the publication of information whose publication within the time required by that subsection would in the opinion of the Treasury be against the public interest.
- (5) Before publishing the record of a meeting required by subsection (1), or deciding under subsection (4) not to publish such a record, the Treasury must consult the Bank about the record and its publication.

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### *Power of Bank to require FCA or PRA to provide information*

#### **9Y Directions requiring information or documents**

- (1) The Bank may exercise the powers conferred by this section where it considers that information or documents are reasonably required in connection with the exercise by the Bank of its functions in pursuance of the Financial Stability Objective.
- (2) The Bank may give a direction to the FCA or the PRA (“the regulator”) requiring the regulator—
  - (a) to provide the Bank with specified information or information of a specified description, or
  - (b) to produce to the Bank specified documents or documents of a specified description.
- (3) The direction may relate to information or documents which are held by persons other than the regulator and which the regulator has power to obtain or whose production the regulator has power to require.
- (4) Any information or documents to which the direction relates are—
  - (a) where the information or documents are held by a person in relation to whom the powers conferred by subsections (1) and (3) of section 165 of FSMA 2000 are exercisable, to be taken to be information or documents to which that section applies by virtue of subsection (4) of that section, and
  - (b) where they are held by a person to whom section 165A of FSMA 2000 applies and the direction is given to the PRA, to be taken to be information or documents to which that section applies by virtue of subsection (3) of that section.
- (5) The information or documents must be provided or produced before the end of such period as may be specified.
- (6) The Bank may require any information provided under this section to be provided in such form as it may require.
- (7) The Bank may require—
  - (a) any information provided, whether in a document or otherwise, to be verified in such manner as it may require;
  - (b) any document produced to be authenticated in such manner as it may require.

#### **9Z Further provisions about directions under section 9Y**

- (1) In the exercise of its functions under section 9Y, the Bank must have regard to the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction.

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- (2) Before giving a direction under section 9Y to the FCA or the PRA (“the regulator”), the Bank must consult the regulator.
- (3) A direction under section 9Y must be in writing, and may be revoked by a notice in writing.
- (4) As soon as practicable after giving a direction under section 9Y, the Bank must publish the direction in such manner as it thinks appropriate for bringing the direction to the attention of persons (other than the regulator to which it is given) who may be affected by it.
- (5) Subsection (4) does not require the publication of information whose publication at the time required by that subsection would in the opinion of the Bank be against the public interest.
- (6) Where the Bank decides under subsection (5) that publication of any information would be against the public interest, it must from time to time review that decision and if it subsequently decides that publication is no longer against the public interest it must comply with subsection (4).

### *Supplementary*

#### **9ZA Interpretation of Part 1A**

In this Part—

“the FCA” means the Financial Conduct Authority;

“financial assistance” has the meaning given by section 257(1) of the Banking Act 2009;

“the Financial Policy Committee” means the Financial Policy Committee of the Bank of England;

“the financial sector” means financial institutions generally;

“FSMA 2000” means the Financial Services and Markets Act 2000;

“the PRA” means the Prudential Regulation Authority;

“systemic risk” has the meaning given by section 9C(5);

“the UK economy” means the economy of the United Kingdom;

“the UK financial system” means the financial system of the United Kingdom.”

- (2) After Schedule 2 to the Bank of England Act 1998 insert as Schedule 2A the Schedule set out in Part 1 of Schedule 1 to this Act.
- (3) The further amendments relating to the Financial Policy Committee in Part 2 of Schedule 1 have effect.
- (4) Sections 2B and 2C of the Bank of England Act 1998 (which relate to the establishment and procedure of the Financial Stability Committee) are repealed.

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VALID FROM 19/02/2013

**5 Further amendments relating to Bank of England**

Schedule 2 contains further amendments relating to the Bank of England.

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