



# Financial Services (Banking Reform) Act 2013

## 2013 CHAPTER 33

### PART 5 U.K.

#### REGULATION OF PAYMENT SYSTEMS

##### *Consultation, accountability and oversight*

#### [<sup>F1</sup>102B Matters to consider when imposing generally applicable requirements U.K.]

- (1) This section applies where the Payment Systems Regulator proposes to impose a generally applicable requirement (as defined by section 104(1)).
- (2) The Regulator must have regard to any specified matters that are relevant to the imposition of the requirement in question.
- (3) “Specified” means specified in regulations made by the Treasury for the purposes of this section.
- (4) The specification of a matter for the purposes of this section may apply generally to the exercise of a function or be limited in whatever way the Treasury consider appropriate, including by reference to—
  - (a) the power under which the function is carried out;
  - (b) the persons to whom the carrying out of the function apply;
  - (c) the activities or subject-matter to which the function relates.
- (5) The duty under subsection (2) is in addition to any other requirements to have regard to matters when exercising relevant functions imposed by another provision of this Act or by any other enactment.]

*Status: Point in time view as at 01/01/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Financial Services (Banking Reform) Act 2013, Cross Heading: Consultation, accountability and oversight. (See end of Document for details)*

#### Textual Amendments

- F1** S. 102B inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(3), [Sch. 7 para. 5](#); S.I. 2023/779, reg. 4(ccc)(iv)

### 103 Regulator's general duty to consult **U.K.**

- (1) The Payment Systems Regulator must make and maintain effective arrangements for consulting relevant persons on—
  - (a) the extent to which its general policies and practices are consistent with its general duties under section 49, and
  - (b) how its payment systems objectives may best be achieved.
- (2) The following are “relevant persons” for the purposes of this section—
  - (a) participants in regulated payment systems, and
  - (b) those who use, or are likely to use, services provided by regulated payment systems.
- (3) Arrangements under this section must include the establishment and maintenance of one or more panels of persons to represent the interests of relevant persons.
- (4) Where the Payment Systems Regulator establishes a panel under subsection (3), it must appoint one of the members of the panel to be its chair.
- (5) The Treasury's approval is required for the appointment or dismissal of the chair of a panel established under subsection (3).
- [<sup>F2</sup>(5A) A person who receives remuneration from the FCA, the PRA, the Payment Systems Regulator, the Bank of England or the Treasury is disqualified from being appointed as a member of a panel established under subsection (3).
- (5B) Subsection (5A) does not apply in respect of a panel mentioned in that subsection if regulations made by the Treasury provide for it not to apply to that panel.
- (5C) Regulations under subsection (5B) may make provision in respect of a panel—
  - (a) generally, or
  - (b) only in relation to such descriptions of persons or cases as the regulations may specify (but the power to make such regulations may not be exercised so as to specify persons by name).]
- (6) The Payment Systems Regulator must—
  - (a) consider representations that are made to it in accordance with arrangements made under this section, and
  - (b) from time to time publish, in such manner as it thinks fit, responses to the representations.

#### Textual Amendments

- F2** S. 103(5A)-(5C) inserted (29.8.2023 for specified purposes, 26.12.2023 in so far as not already in force) by [Financial Services and Markets Act 2023 \(c. 29\)](#), [ss. 46\(9\)](#), 86(3); S.I. 2023/779, reg. 4(jj)(ii); S.I. 2023/1382, reg. 7(c) (with reg. 17)

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*Changes to legislation: There are currently no known outstanding effects for the Financial Services (Banking Reform) Act 2013, Cross Heading: Consultation, accountability and oversight. (See end of Document for details)*

**Modifications etc. (not altering text)**

- C1** S. 103(5A) excluded (26.12.2023) by [The Financial Services and Markets Act 2023 \(Panel Remuneration and Reports\) Regulations 2023 \(S.I. 2023/1273\)](#), regs. 1(2), 2(3)

**Commencement Information**

- II** S. 103 in force at 1.3.2014 by [S.I. 2014/377](#), art. 2(1)(a), [Sch. Pt. 1](#)

**104 Consultation in relation to generally applicable requirements** **U.K.**

- (1) In this <sup>[F3]</sup>Part references to imposing a generally applicable requirement are to—
- (a) giving a general direction under section 54, or
  - (b) imposing a generally-imposed requirement under section 55,
- and references to the requirement are to be read accordingly.
- (2) Before imposing a generally applicable requirement, the Payment Systems Regulator must—
- (a) consult the Bank of England, the FCA and the PRA, and
  - (b) after doing so, publish a draft of the proposed requirement in the way appearing to the Payment Systems Regulator to be best calculated to bring it to the attention of the public.
- (3) The draft must be accompanied by—
- (a) a cost benefit analysis,
  - (b) an explanation of the purpose of the proposed requirement,
  - <sup>[F4]</sup>(ba) an explanation of the ways in which having regard to specified matters under section 102B(2) has affected the proposed requirement,]
  - (c) an explanation of the Payment Systems Regulator's reasons for believing that imposing the requirement is compatible with its duties under section 49, and
  - (d) notice that representations about the proposed requirement may be made to the Payment Systems Regulator within a specified time.
- (4) Before imposing the proposed requirement the Payment Systems Regulator must have regard to any representations made to it in accordance with subsection (3)(d).
- (5) If the Payment Systems Regulator proposes to impose the requirement, it must publish an account, in general terms, of—
- (a) the representations made to it in accordance with subsection (3)(d), and
  - (b) its response to them.
- <sup>[F5]</sup>(5A) The Payment Systems Regulator must include, in the account mentioned in subsection (5), a list of the respondents who made the representations, where those respondents have consented to the publication of their names.
- (5B) The duty in subsection (5A) is not to be read as authorising or requiring such processing of personal data as would contravene the data protection legislation (but the duty is to be taken into account in determining whether particular processing of data would contravene that legislation).
- (5C) In this section “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

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- (5D) Where representations are made to the Payment Systems Regulator by a Committee of the House of Commons or the House of Lords or a Joint Committee of both Houses in accordance with subsection (3)(d), the Payment Systems Regulator’s account mentioned in subsection (5) must also describe how the Payment Systems Regulator has considered the representations made by that Committee in making the proposed requirement.]
- (6) If the requirement differs from the draft published under subsection (2)(b) in a way which is, in the opinion of the Payment Systems Regulator, significant the Payment Systems Regulator must (in addition to complying with subsection (5)) publish details of the difference together with a cost benefit analysis.
- (7) For the purposes of this section a “cost benefit analysis” is—
- (a) an analysis of the costs together with an analysis of the benefits that will arise—
    - (i) if the proposed requirement is imposed, or
    - (ii) if subsection (6) applies, from the requirement imposed, and
  - (b) subject to subsection (8), an estimate of those costs and of those benefits.
- (8) If, in the opinion of the Payment Systems Regulator—
- (a) the costs or benefits referred to in subsection (7) cannot reasonably be estimated, or
  - (b) it is not reasonably practicable to produce an estimate,
- the cost benefit analysis need not estimate them, but must include a statement of the Payment Systems Regulator's opinion and an explanation of it.
- (9) The Payment Systems Regulator may charge a reasonable fee for providing a person with a copy of a draft published under subsection (2)(b).
- (10) Subsections (2)(b) and (3) to (6) do not apply if the Payment Systems Regulator considers that the delay involved in complying with them would be prejudicial to the interests of those who use, or are likely to use, services provided by regulated payment systems.
- (11) Subsections (3)(a) and (6) do not apply if the Payment Systems Regulator considers that, making the appropriate comparison—
- (a) there will be no increase in costs, or
  - (b) there will be an increase in costs but the increase will be of minimal significance.
- (12) In subsection (11) the “appropriate comparison” means—
- (a) in relation to subsection (3)(a), a comparison between the overall position if the requirement is imposed and the overall position if it is not imposed;
  - (b) in relation to subsection (6), a comparison between the overall position after the imposing of the requirement and the overall position before it was imposed.
- [<sup>F6</sup>(12A) The duty to provide the explanation referred to in subsection (3)(ba) does not apply in relation to any proposed requirement which changes an existing requirement and the changes consist of, or include, changes which, in the Payment Systems Regulator’s opinion, are not material.

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(12B) Where an explanation is not provided by virtue of subsection (12A), the draft of the proposed requirement must be accompanied by a statement of the Payment Systems Regulator’s opinion.]

#### Textual Amendments

- F3** Word in s. 104(1) substituted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\), s. 86\(3\), Sch. 7 para. 6\(a\)](#); S.I. 2023/779, reg. 4(ccc)(iv)
- F4** S. 104(3)(ba) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\), s. 86\(3\), Sch. 7 para. 6\(b\)](#); S.I. 2023/779, reg. 4(ccc)(iv)
- F5** S. 104(5A)-(5D) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\), ss. 53\(3\), 86\(3\)](#); S.I. 2023/779, reg. 4(mm)
- F6** S. 104(12A)(12B) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\), s. 86\(3\), Sch. 7 para. 6\(c\)](#); S.I. 2023/779, reg. 4(ccc)(iv)

#### Modifications etc. (not altering text)

- C2** S. 104 applied (with modifications) (9.12.2015) by [The Payment Card Interchange Fee Regulations 2015 \(S.I. 2015/1911\), regs. 1, 15\(2\)](#) (as amended (1.1.2024) by [The Electronic Money, Payment Card Interchange Fee and Payment Services \(Amendment\) Regulations 2023 \(S.I. 2023/790\), reg. 3\(10\)](#))
- C3** S. 104 applied (with modifications) (13.1.2018) by [The Payment Services Regulations 2017 \(S.I. 2017/752\), regs. 1\(6\), 136\(2\)](#) (with reg. 3)

#### Commencement Information

- I2** S. 104 in force at 1.3.2014 by [S.I. 2014/377, art. 2\(1\)\(a\), Sch. Pt. 1](#)

### [<sup>F7</sup>104A Requirements in connection with public consultations **U.K.**

- (1) This section applies where the Payment Systems Regulator issues a public consultation.
- (2) The Payment Systems Regulator must include information in the consultation about any engagement by the Payment Systems Regulator with the statutory panels of the Payment Systems Regulator, the FCA and the PRA in relation to the matters being consulted on.
- (3) The Payment Systems Regulator is not required under subsection (2) to include any information whose publication would in the opinion of the Payment Systems Regulator be against the public interest.
- (4) For the purposes of this section, the Payment Systems Regulator issues a public consultation if it publishes any proposals for the purpose of bringing them to the attention of the public (whether or not under a duty to do so imposed by an enactment).
- (5) In this section a “statutory panel”—
  - (a) in relation to the Payment Systems Regulator, means a panel established under section 103(3),
  - (b) in relation to the FCA, has the meaning given by section 1RA(8) of FSMA 2000, and
  - (c) in relation to the PRA, has the meaning given by section 2NA(8) of FSMA 2000.

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#### Textual Amendments

- F7** Ss. 104A-104I inserted (29.8.2023 for specified purposes) by [Financial Services and Markets Act 2023](#) (c. 29), s. 86(3), [Sch. 7 para. 7](#); S.I. 2023/779, reg. 4(ccc)(v)

### 104B Duty of Regulator to review generally applicable requirements **U.K.**

The Payment Systems Regulator must keep under review generally any generally applicable requirements.

#### Textual Amendments

- F7** Ss. 104A-104I inserted (29.8.2023 for specified purposes) by [Financial Services and Markets Act 2023](#) (c. 29), s. 86(3), [Sch. 7 para. 7](#); S.I. 2023/779, reg. 4(ccc)(v)

### 104C Statement of policy relating to review of requirements **U.K.**

- (1) The Payment Systems Regulator must prepare and publish a statement of its policy with respect to its review of requirements under section 104B.
- (2) The statement must provide information about—
  - (a) how representations (including by a relevant panel) can be made to the Regulator with respect to its review of requirements under section 104B, and
  - (b) the arrangements to ensure that those representations are considered.
- (3) In this section “relevant panel” means—
  - (a) a panel of the Payment Systems Regulator established under section 103(3),
  - (b) a panel of the FCA mentioned in section 1RA(8) of FSMA 2000, and
  - (c) a panel of the PRA mentioned in section 2NA(8) of FSMA 2000.
- (4) If a statement published under this section is altered or replaced by the Payment Systems Regulator, the Regulator must publish the altered or replaced statement.
- (5) A statement prepared under this section must be published by the Payment Systems Regulator in the way appearing to the Regulator to be best designed to bring it to the attention of the public.

#### Textual Amendments

- F7** Ss. 104A-104I inserted (29.8.2023 for specified purposes) by [Financial Services and Markets Act 2023](#) (c. 29), s. 86(3), [Sch. 7 para. 7](#); S.I. 2023/779, reg. 4(ccc)(v)

### 104D Requirement to review specified requirements **U.K.**

- (1) The Treasury may by direction require the Payment Systems Regulator to carry out a review of any generally applicable requirement specified in the direction if—
  - (a) the requirement has been in force for at least 12 months,
  - (b) the Treasury consider that it is in the public interest that the requirement is reviewed, and

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- (c) it does not appear to the Treasury that—
  - (i) the regulator is carrying out, or proposes to carry out, a review of that requirement, or
  - (ii) if the regulator proposes to carry out a review, the proposals are appropriate for the purposes of carrying out an effective review.
- (2) The Treasury must consult the Payment Systems Regulator before giving a direction under subsection (1).
- (3) In exercising the power under this section, the Treasury must have regard to the desirability of minimising any adverse effect that the carrying out of the review may have on the exercise by the Payment Systems Regulator of any of its other functions.
- (4) A direction under subsection (1) may—
  - (a) specify the period within which a review must be carried out;
  - (b) determine the scope and conduct of a review;
  - (c) require the provision of interim reports during the carrying out of a review.
- (5) Provision made in a direction under subsection (4)(b) may include a requirement—
  - (a) for a review to be carried out by a person appointed by the Payment Systems Regulator who is independent of the Regulator;
  - (b) for any such appointment to be made only with the approval of the Treasury.
- (6) As soon as practicable after giving the direction the Treasury must—
  - (a) lay before Parliament a copy of the direction, and
  - (b) publish the direction in such manner as the Treasury think fit.
- (7) Subsection (6) does not apply where the Treasury consider that publication of the direction would be against the public interest.
- (8) A direction under this section may be varied or revoked by the giving of a further direction.

#### Textual Amendments

**F7** Ss. 104A-104I inserted (29.8.2023 for specified purposes) by [Financial Services and Markets Act 2023](#) (c. 29), s. 86(3), [Sch. 7 para. 7](#); S.I. 2023/779, reg. 4(ccc)(v)

### **104E Report on certain reviews** **U.K.**

- (1) This section applies where the Treasury have given a direction to the Payment Systems Regulator under section 104D(1) to carry out a review.
- (2) The Payment Systems Regulator must provide a written report to the Treasury as to the opinion of the Regulator in relation to the following matters—
  - (a) whether the requirements under review advance one or more of the payment systems objectives;
  - (b) whether and to what extent the requirements are functioning effectively and achieving their intended purpose;
  - (c) whether any amendments need to be made to the requirements and, if so, what those amendments should be;

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- (d) whether any requirements should be withdrawn (with or without replacement);
  - (e) whether any other action should be taken and, if so, what that action should be.
- (3) As soon as practicable after receiving the report the Treasury must—
- (a) lay before Parliament a copy of the report, and
  - (b) publish the report in such manner as the Treasury think fit.
- (4) When complying with subsection (3) the Treasury may withhold material from the report if the Treasury consider that publication of the material would be against the public interest.

#### Textual Amendments

**F7** Ss. 104A-104I inserted (29.8.2023 for specified purposes) by [Financial Services and Markets Act 2023](#) (c. 29), s. 86(3), [Sch. 7 para. 7](#); S.I. 2023/779, reg. 4(ccc)(v)

### 104F Power of Treasury to require the imposition of generally applicable requirements **U.K.**

- (1) The Treasury may by regulations require the Payment Systems Regulator to exercise a power under this Part to impose a generally applicable requirement in relation to a specified activity or a specified description of person.
- (2) Regulations under this section may—
- (a) specify matters that the requirement must cover;
  - (b) specify a period within which the requirement must be made.
- (3) But except so far as permitted by subsection (2), regulations under this section may not require the requirement to be imposed—
- (a) in a specified form or with specified content, or
  - (b) to achieve or advance a specified outcome.
- (4) If no period is specified under subsection (2)(b) the requirement must be imposed as soon as reasonably practicable after the coming into force of the regulations.

#### Textual Amendments

**F7** Ss. 104A-104I inserted (29.8.2023 for specified purposes) by [Financial Services and Markets Act 2023](#) (c. 29), s. 86(3), [Sch. 7 para. 7](#); S.I. 2023/779, reg. 4(ccc)(v)

### 104G Consultation with the FCA Cost Benefit Analysis Panel **U.K.**

- (1) Except as provided by subsection (2), the Payment Systems Regulator must consult the FCA Cost Benefit Analysis Panel, and that Panel must provide advice, about the following matters—
- (a) the preparation of a cost benefit analysis under section 104(3)(a) or (6);
  - (b) the preparation of its statement of policy under section 104H.
- (2) The requirement to consult under subsection (1)(a) does not apply in such cases as may be set out in the statement of policy maintained under section 104H.



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- (3) The FCA Cost Benefit Analysis Panel must—
  - (a) keep under review how the Payment Systems Regulator is performing generally in carrying out its duties under section 104(3)(a) and (6), and
  - (b) provide to the Payment Systems Regulator whatever recommendations the Panel thinks appropriate as a result of such review.
- (4) The Payment Systems Regulator must consider representations that are made to it by the FCA Cost Benefit Analysis Panel.
- (5) The Payment Systems Regulator must from time to time publish in such manner as it thinks fit responses to the representations.
- (6) In this section references to the “FCA Cost Benefit Analysis Panel” are to the panel established under section 138IA of FSMA 2000.

#### Textual Amendments

**F7** Ss. 104A-104I inserted (29.8.2023 for specified purposes) by [Financial Services and Markets Act 2023](#) (c. 29), s. 86(3), [Sch. 7 para. 7](#); S.I. 2023/779, reg. 4(ccc)(v)

### 104H Statement of policy in relation to cost benefit analyses **U.K.**

- (1) The Payment Systems Regulator must prepare and publish a statement of policy in relation to the preparation of cost benefit analyses for the purposes of section 104.
- (2) The statement must provide information about—
  - (a) the methodology adopted in preparing cost benefit analyses;
  - (b) matters to which the Payment Systems Regulator has regard in determining whether section 104(8) applies;
  - (c) matters to which the Payment Systems Regulator has regard in determining whether section 104(10) or (11) applies in relation to the preparation of a cost benefit analysis;
  - (d) arrangements to ensure that representations in connection with a cost benefit analysis that are made in accordance with section 104(3)(d) are considered;
  - (e) cases in which the requirement to consult the FCA Cost Benefit Analysis Panel in relation to the preparation of a cost benefit analysis does not apply.
- (3) The statement may include whatever other information in relation to cost benefit analyses that the Payment Systems Regulator considers appropriate.
- (4) The Payment Systems Regulator may alter or replace a statement published under this section.
- (5) The Payment Systems Regulator must publish a statement as altered or replaced under subsection (4).
- (6) Publication under this section is to be made in such manner as the Payment Systems Regulator considers best designed to bring the statement to the attention of the public.

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#### Textual Amendments

**F7** Ss. 104A-104I inserted (29.8.2023 for specified purposes) by [Financial Services and Markets Act 2023](#) (c. 29), s. 86(3), [Sch. 7 para. 7](#); S.I. 2023/779, reg. 4(ccc)(v)

### 104I Statement of policy on panel appointments **U.K.**

- (1) The Payment Systems Regulator must prepare and publish a statement of policy in relation to the appointment of members to any panel established under section 103(3).
- (2) The statement must provide information about—
  - (a) the process adopted for making appointments;
  - (b) matters considered in determining who is appointed.
- (3) The statement may provide whatever other information in relation to the making of appointments that the Payment Systems Regulator considers appropriate.
- (4) The Payment Systems Regulator may alter or replace a statement published under this section.
- (5) The Payment Systems Regulator must publish a statement as altered or replaced under subsection (4).
- (6) Before publishing a statement under this section the Payment Systems Regulator must—
  - (a) consult the Treasury about the proposed statement, and
  - (b) have regard to any representations the Treasury make in response to the consultation.
- (7) Publication under this section is to be made in such manner as the Payment Systems Regulator considers best designed to bring the statement to the attention of the public.]

#### Textual Amendments

**F7** Ss. 104A-104I inserted (29.8.2023 for specified purposes) by [Financial Services and Markets Act 2023](#) (c. 29), s. 86(3), [Sch. 7 para. 7](#); S.I. 2023/779, reg. 4(ccc)(v)

### 105 Independent inquiries **U.K.**

- (1) Section 68 of the Financial Services Act 2012 (cases in which Treasury may arrange independent inquiries) is amended as follows.
- (2) In subsection (1), for “two” substitute “ three ”.
- (3) After subsection (3) insert—
  - “(3A) The third case is where it appears to the Treasury that—
    - (a) events have occurred in relation to a regulated payment system which caused or risked causing significant damage to business or other interests throughout the United Kingdom, and
    - (b) those events might not have occurred, or the threat or damage might have been reduced, but for a serious failure in—

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- (i) the system established by Part 5 of the Financial Services (Banking Reform) Act 2013 for the regulation of payment systems, or
- (ii) the operation of that system.”

(4) In section 83(1) (interpretation), after the definition of “regulated activity” insert—

““regulated payment system” has the same meaning as in Part 5 of the Financial Services (Banking Reform) Act 2013 (see section 110 of that Act);”.

#### Commencement Information

**I3** S. 105 in force at 1.3.2014 by S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1

## 106 Investigations into regulatory failure **U.K.**

(1) Part 5 of the Financial Services Act 2012 (inquiries and investigations) is amended as follows.

(2) After section 76 insert—

### **“76A Duty of Payment Systems Regulator to investigate and report on possible regulatory failure**

- (1) Subsection (3) applies where it appears to the Payment Systems Regulator that—
  - (a) events have occurred in relation to a regulated payment system which had or could have had a significant adverse effect on effective competition in the interests of—
    - (i) participants in the payment system, or
    - (ii) those who use, or are likely to use, the services provided by the payment system, and
  - (b) those events might not have occurred, or the adverse effect might have been reduced, but for a serious failure in—
    - (i) the system established by Part 5 of the Financial Services (Banking Reform) Act 2013 for the regulation of payment systems, or
    - (ii) the operation of that system.
- (2) Subsection (3) also applies where the Treasury direct the Payment Systems Regulator that it appears to the Treasury that the conditions in subsection (1) are met in relation to specified events.
- (3) The Payment Systems Regulator must carry out an investigation into the events and the circumstances surrounding them and report to the Treasury on the result of the investigation.
- (4) Subsection (3) does not apply by virtue of subsection (1) if the Treasury direct the Payment Systems Regulator that it is not required to carry out an investigation into the events concerned.

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- (5) In this section “participant”, in relation to a regulated payment system, has the same meaning as in Part 5 of the Financial Services (Banking Reform) Act 2013 (see section 42 of that Act).”
- (3) In section 77 (power of Treasury to require FCA or PRA to undertake investigation)—
- (a) in subsection (1)(a), for “either regulator” substitute “ a regulator ”;
  - (b) in subsection (3), omit the “or” at the end of paragraph (b) and after paragraph (c) insert “, or
  - (d) a regulated payment system.”;
  - (c) the heading of that section becomes “ **Power of Treasury to require regulator to undertake investigation** ”.
- (4) In section 78 (conduct of investigation), in subsection (1), for “or 74” substitute “ , 74 or 76A ”.
- (5) In section 79 (conclusion of investigation), for “or 74” substitute “ , 74 or 76A ”.
- (6) In section 80 (statements of policy), in subsection (1)(a), for “or 74” substitute “ , 74 or 76A ”.
- (7) In section 81 (publication of directions), in subsection (1), after paragraph (b) insert—
- “(ba) section 76A(4);”.
- (8) In section 83(1) (interpretation)—
- (a) after the definition of “listed securities” insert—
 

““the Payment Systems Regulator” means the body established under section 40 of the Financial Services (Banking Reform) Act 2013;”;
  - (b) in the definition of “regulator”, for “or the PRA” substitute “ , the PRA or the Payment Systems Regulator ”.

#### Commencement Information

**I4** S. 106 in force at 1.3.2014 by [S.I. 2014/377](#), art. 2(1)(a), [Sch. Pt. 1](#)

## 107 Competition scrutiny **U.K.**

- (1) Chapter 4 of Part 9A of FSMA 2000 (competition scrutiny) applies to the Payment Systems Regulator's practices and regulating provisions in relation to payment systems as it applies to the FCA's practices and regulating provisions within the meaning of that Chapter.
- (2) In subsection (1)—
- (a) the reference to the Payment Systems Regulator's practices in relation to payment systems is a reference to practices adopted by it in the exercise of functions under this Part, and
  - (b) the reference to the Payment Systems Regulator's regulating provisions in relation to payment systems is a reference to the following—
    - (i) any general directions given under section 54;
    - (ii) any generally-imposed requirements under section 55;
    - (iii) any guidance given under section 96.

*Status: Point in time view as at 01/01/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Financial Services (Banking Reform) Act 2013, Cross Heading: Consultation, accountability and oversight. (See end of Document for details)*

#### Commencement Information

**I5** S. 107 in force at 1.3.2014 by S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1

### [<sup>F8</sup>107A International trade obligations **U.K.**

- (1) This section applies where it appears to the Payment Systems Regulator that there is a material risk that a relevant action it proposes to take would be incompatible with an international trade obligation.
- (2) The Payment Systems Regulator must give written notice to the Treasury of the proposed action before proceeding to take it.
- (3) Subsection (2) applies only if a duty to consult applies in respect of the taking of the relevant action.
- (4) For the purposes of subsection (1) the Payment Systems Regulator proposes to take a “relevant action” if it—
  - (a) proposes to impose a generally applicable requirement, or
  - (b) proposes to make changes to its general policies and practices.
- (5) For the purposes of subsection (3) a duty to consult applies in respect of a relevant action if—
  - (a) the duty imposed by section 104 to publish a draft of a proposed requirement applies in respect of the action, or
  - (b) any other duty (whether or not imposed by a provision of this Act) to publish the proposal to take the action in question applies.
- (6) The requirement imposed by subsection (2) must be carried out before the duty to consult in respect of the relevant action is carried out.
- (7) Subsection (8) applies in a case where a notice under subsection (2) is not given because of subsection (3).
- (8) The Payment Systems Regulator must give written notice to the Treasury of the relevant action it has taken as soon as reasonably practicable after taking it if it appears to the Regulator that there is a material risk that the action is incompatible with an international trade obligation.
- (9) In this section “international trade obligation” means an obligation of the United Kingdom that relates to financial services or markets under—
  - (a) a free trade agreement, as defined by section 5(1) of the Trade Act 2021, or
  - (b) the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994.]

#### Textual Amendments

**F8** S. 107A inserted (1.1.2024) by Financial Services and Markets Act 2023 (c. 29), s. 86(3), Sch. 7 para. 8; S.I. 2023/1382, reg. 9(1)(d)(iii) (with reg. 15)

**Status:**

Point in time view as at 01/01/2024.

**Changes to legislation:**

There are currently no known outstanding effects for the Financial Services (Banking Reform) Act 2013, Cross Heading: Consultation, accountability and oversight.