



Financial Services (Banking Reform) Act 2013

2013 CHAPTER 33

PART 5

REGULATION OF PAYMENT SYSTEMS

[^{F1}Technical Standards

Textual Amendments

- F1** Ss. 97A-97D and cross-heading inserted (26.10.2018) by [The Financial Regulators Powers \(Technical Standards etc.\) \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1115\)](#), regs. 1(2), **10(4)**

97A. Technical standards

- (1) This section, section 97B, section 97C and section 97D apply where a power for the Payment Systems Regulator to make technical standards is substituted for the power of an EU entity to make EU tertiary legislation (the “original EU power”) by regulations made under section 8 of the European Union (Withdrawal) Act 2018.
- (2) The power to make technical standards includes power to modify, amend or revoke—
 - (a) any technical standards made by the Payment Systems Regulator under that power;
 - (b) any EU tertiary legislation made by an EU entity under the original EU power which forms part of retained EU law.
- (3) Before making any technical standards in which the FCA, the PRA or the Bank of England has an interest (within the meaning of section 138P(5) of the Financial Services and Markets Act 2000), the Payment Systems Regulator must consult the regulator concerned.

Status: Point in time view as at 26/10/2018.

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

- (4) For the purposes of this section, “EU tertiary legislation” has the meaning given in section 14 of the European Union (Withdrawal) Act 2018.

97B. Standards instruments

- (1) The power to make technical standards is to be exercised by the Payment Systems Regulator by making an instrument under this section (a “standards instrument”).
- (2) A standards instrument must specify the provision under which the instrument is being made.
- (3) To the extent that a standards instrument does not comply with subsection (2), it is void.
- (4) A standards instrument must be published by the Payment Systems Regulator in the way appearing to the regulator to be best calculated to bring it to the attention of the public.
- (5) The Treasury must lay before Parliament a copy of each standards instrument made under this section.
- (6) The Payment Systems Regulator may charge a reasonable fee for providing a person with a copy of a standards instrument.

97C. Treasury approval

- (1) A standards instrument may be made only if it has been approved by the Treasury.
- (2) The Treasury may refuse to approve a standards instrument if subsection (3) applies.
- (3) This subsection applies if it appears to the Treasury that the instrument would—
 - (a) have implications for public funds (within the meaning of section 78(2) of the Banking Act 2009); or
 - (b) prejudice any current or proposed negotiations for an international agreement between the United Kingdom and one or more other countries, international organisations or institutions.
- (4) For the purposes of subsection (3), “international organisations” includes the European Union.
- (5) The Treasury must notify the Payment Systems Regulator in writing whether or not they approve a standards instrument within four weeks after the day on which that instrument is submitted to the Treasury for approval (“the relevant period”).
- (6) Provision of a draft standards instrument to the Treasury for consultation does not amount to submission of the instrument for approval.
- (7) If the Treasury do not approve the instrument, they must—
 - (a) set out in the notice given under subsection (5) the Treasury’s reasons for not approving the instrument;
 - (b) lay before Parliament—
 - (i) a copy of that notice;
 - (ii) a copy of any statement made by the Payment Systems Regulator as to its reasons for wishing to make the instrument.

Status: Point in time view as at 26/10/2018.

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- (8) If the Treasury do not give notice under subsection (5) before the end of the relevant period, the Treasury is deemed to have approved the standards instrument.

97D. Application of section 104 of this Act and Part 9A of the Financial Services and Markets Act 2000

- (1) Section 104 (consultation in relation to generally applicable requirements) applies to making technical standards as it applies to imposing a generally applicable requirement within the meaning of section 104(1), as if—
- (a) in subsection (3)(c) the reference to the Payment Systems Regulator’s duties under section 49 were a reference to the Payment Systems Regulator’s duties under regulation 3(2) and (4) of the Payment Card Interchange Fee Regulations 2015 (“the 2015 Regulations”);
 - (b) in subsection (10), the reference to regulated payment systems were a reference to regulated persons within the meaning of regulation 2(1) of the 2015 Regulations.
- (2) The provisions of the Financial Services and Markets Act 2000 listed in subsection (3) apply to technical standards made by the Payment Systems Regulator as they apply to rules made by the FCA subject to the modifications specified in subsection (3).
- (3) The provisions referred to in subsection (2) are—
- (a) section 137T (general supplementary powers) (ignoring paragraph (b));
 - (b) section 138E (limit on effect of contravening rules) (ignoring subsection (3));
 - (c) section 138F (notification of rules) (ignoring subsection (2));
 - (d) section 138H (verification of rules) (treating the reference in subsection (2) (c) to section 138G(4) of the Act as a reference to section 97B(4)).]

Status:

Point in time view as at 26/10/2018.

Changes to legislation:

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