



Financial Services (Banking Reform) Act 2013

2013 CHAPTER 33

PART 4

CONDUCT OF PERSONS WORKING IN FINANCIAL SERVICES SECTOR

Offence

36 Offence relating to a decision causing a financial institution to fail

- (1) A person (“S”) commits an offence if—
- (a) at a time when S is a senior manager in relation to a financial institution (“F”), S—
 - (i) takes, or agrees to the taking of, a decision by or on behalf of F as to the way in which the business of a group institution is to be carried on, or
 - (ii) fails to take steps that S could take to prevent such a decision being taken,
 - (b) at the time of the decision, S is aware of a risk that the implementation of the decision may cause the failure of the group institution,
 - (c) in all the circumstances, S’s conduct in relation to the taking of the decision falls far below what could reasonably be expected of a person in S’s position, and
 - (d) the implementation of the decision causes the failure of the group institution.
- (2) A “group institution”, in relation to a financial institution (“F”), means F or any other financial institution that is a member of F’s group for the purpose of FSMA 2000 (see section 421 of that Act).
- (3) Subsections (1) and (2) are to be read with the interpretative provisions in section 37.
- (4) A person guilty of an offence under this section is liable—

Status: Point in time view as at 09/08/2019. This version of this provision has been superseded.

Changes to legislation: *Financial Services (Banking Reform) Act 2013, Section 36 is up to date with all changes known to be in force on or before 25 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)*

- (a) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003) or a fine, or both;
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both;
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine, or both.

Commencement Information

- II** S. 36 in force at 7.3.2016 by S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))

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