



Bank of England Act 1998

1998 CHAPTER 11

PART III

TRANSFER OF SUPERVISORY FUNCTIONS OF THE BANK TO THE FINANCIAL SERVICES AUTHORITY

Transfer of functions to the Authority

21 Transfer

The following functions of the Bank are hereby transferred to the Authority—

- (a) its functions under—
 - (i) the Banking Act 1987,
 - (ii) the Banking Coordination (Second Council Directive) Regulations 1992, and
 - (iii) section 101(4) of the Building Societies Act 1986, (banking supervision functions),
- (b) its functions under—
 - (i) section 43 of the Financial Services Act 1986, and
 - (ii) the Investment Services Regulations 1995, (functions relating to the listing of money market institutions), and
- (c) its functions under section 171 of the Companies Act 1989 (functions relating to the listing of persons providing settlement arrangements).

22 Supplementary provisions

Schedule 4 (transfer of functions: supplementary provisions) shall have effect.

23 Consequential amendments

- (1) Schedule 5 (amendments of primary, and other principal, legislation consequential on the transfer of functions by section 21) shall have effect.
- (2) The Treasury may by order make such amendments or revocations of any instrument made under an Act as they think necessary or expedient in consequence of the transfer of functions by this Part.
- (3) If a reference in a relevant provision to the Bank is predicated on the continuing exercise by the Bank of any of the transferred functions, it shall, in relation to any time after the coming into force of this Act, have effect as a reference to the Authority.
- (4) In subsection (3), “relevant provision” means a provision which—
 - (a) has effect before, as well as after, the coming into force of this Act, and
 - (b) is contained in a document other than an Act or an instrument made under an Act.

Authority’s position in relation to transferred functions

24 Status

In relation to the carrying out of any of the transferred functions—

- (a) the Authority shall not be regarded as acting on behalf of the Crown, and
- (b) its members, officers and servants shall not be regarded as Crown servants.

25 Liability

- (1) In section 43 of the Financial Services Act 1986, at the end there is inserted—

“(5) Neither the Authority nor any person who is, or is acting as, an officer or servant of the Authority shall be liable in damages for anything done or omitted in the discharge or purported discharge of any of the Authority’s functions under this section, unless it is shown that the act or omission was in bad faith.”
- (2) In regulation 26 of the Investment Services Regulations 1995, at the end there is inserted—

“(6) That section shall also have effect as if the reference in subsection (5) to the Authority’s functions under the section included a reference to—
 - (a) any function under these Regulations which is a function of the Authority by virtue of the Bank of England Act 1998, and
 - (b) so much of any function of the Authority under these Regulations as is exercisable by virtue of that Act.”
- (3) In section 171 of the Companies Act 1989, after subsection (6) there is inserted—

“(6A) Neither the Authority nor any person who is, or is acting as, an officer or servant of the Authority shall be liable in damages for anything done or omitted in the discharge or purported discharge of any of the Authority’s functions under this section, unless it is shown that the act or omission was in bad faith.”

26 Power to charge fees

- (1) Schedule 6 (banking supervision fees) shall have effect.
- (2) In section 43 of the Financial Services Act 1986, after subsection (2) there is inserted—
 - “(2A) Without prejudice to the generality of the Authority’s power to impose conditions for admission to the list, the conditions for admission may include—
 - (a) a condition having the effect of requiring the payment of an application fee, and
 - (b) a condition having the effect of requiring the payment of periodic fees.
 - (2B) A condition of the kind referred to in subsection (2A)(a) or (b) above—
 - (a) may provide for the amount payable to be such as is specified in, or determined under, the condition, and
 - (b) may make different provision for different cases.”
- (3) In section 171 of the Companies Act 1989, after subsection (3) there is inserted—
 - “(3A) Without prejudice to the generality of the Authority’s power to impose conditions for admission to the list, the conditions for admission may include—
 - (a) a condition having the effect of requiring the payment of an application fee, and
 - (b) a condition having the effect of requiring the payment of periodic fees.
 - (3B) A condition of the kind referred to in subsection (3A)(a) or (b)—
 - (a) may provide for the amount payable to be such as is specified in, or determined under, the condition, and
 - (b) may make different provision for different cases.”

27 Power to channel information through agent

In section 39(1)(a) of the Banking Act 1987 (power to require the provision of information)—

- (a) after “provide the Bank,” there is inserted “or such person acting on behalf of the Authority as may be specified in the notice,” and
- (b) for “specified in the notice” there is substituted “so specified”.

Consequential changes to banking bodies

28 Board of Banking Supervision

- (1) In section 2 of the Banking Act 1987 (Board of Banking Supervision), for subsections (1) and (2) there is substituted—
 - “(1) There shall continue to be a committee known as the Board of Banking Supervision.
 - (2) The Board shall consist of—

Status: This is the original version (as it was originally enacted).

- (a) two ex officio members, namely, the Chairman of the Authority and the holder of such other office within the Authority as the Chairman of the Authority may designate for the purposes of this provision; and
- (b) six independent members, that is to say, members appointed jointly by the Chancellor of the Exchequer and the Chairman of the Authority, being persons having no executive responsibility in the Authority.

(2A) The independent members shall elect one of their number to chair the Board.”

- (2) In that section, in subsections (3), (4), (6) and (7), for “Bank”, wherever occurring, there is substituted “Authority”.
- (3) In Schedule 1 to that Act (Board of Banking Supervision), for “Bank”, wherever occurring, there is substituted “Authority”.

29 Deposit Protection Board

- (1) Schedule 4 to the Banking Act 1987 (Deposit Protection Board) paragraph 1 (constitution) is amended as follows.
- (2) In sub-paragraph (1), for paragraphs (a) to (c) (ex officio members of the Board) there is substituted—
 - “(a) the Chairman of the Authority, who shall chair the Board;
 - (b) the holder of such other office within the Authority as the Chairman of the Authority may designate for the purposes of this provision; and
 - (c) the Deputy Governor of the Bank of England responsible for financial stability;”.
- (3) For sub-paragraph (2) there is substituted—
 - “(2) The Chairman of the Authority shall appoint as ordinary members of the Board—
 - (a) three persons who are directors, controllers or managers of contributory institutions; and
 - (b) persons who are officers or employees of the Authority.”
- (4) For sub-paragraph (3) there is substituted—
 - “(3) An ex officio member of the Board may appoint an alternate member to perform his duties as a member in his absence as follows—
 - (a) the Chairman of the Authority or the holder of a designated office within the Authority may appoint an officer or employee of the Authority, and
 - (b) the Deputy Governor of the Bank of England may appoint an officer or employee of the Bank.”
- (5) In sub-paragraph (4) (appointment of alternates for ordinary members), in paragraph (b), for “Bank” there is substituted “Authority”.

Supplementary

30 Interpretation of Part III

In this Part—

“the Authority” means the Financial Services Authority;

“transferred functions” means the functions transferred to the Authority by this Part.