



# Banking Act 2009

## 2009 CHAPTER 1

### PART 5

#### <sup>F1</sup>... PAYMENT SYSTEMS [<sup>F1</sup>AND SERVICE PROVIDERS]

#### *Regulation*

#### 188 Principles

- (1) The Bank of England may publish—
- [<sup>F1</sup>(a)] principles to which operators of recognised <sup>F2</sup>... payment systems are to have regard in operating the systems [<sup>F3</sup>and]
  - [<sup>F4</sup>(b)] principles to which recognised DSA service providers are to have regard in the provision of services to payment systems (whether or not recognised),]
  - [<sup>F5</sup>(c)] principles to which service providers are to have regard in the provision of services to such systems [<sup>F6</sup>or to such DSA service providers].
- (2) Before publishing principles the Bank must obtain the approval of the Treasury.

#### Textual Amendments

- F1** Words in s. 188(1) renumbered as s. 188(1)(a) (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 15\(2\)\(a\)](#)
- F2** Word in s. 188(1) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(2), [Sch. 9 para. 10](#)
- F3** Words in s. 188(1) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), [2\(8\)](#)
- F4** S. 188(1)(b) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 15\(2\)\(b\)](#)
- F5** Words in s. 188(1) renumbered as s. 188(1)(c) (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 15\(2\)\(c\)](#)
- F6** Words in s. 188(1)(c) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 15\(2\)\(d\)](#)

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### Commencement Information

- I1** S. 188 in force at 31.12.2009 by S.I. 2009/3000, art. 4, **Sch. para. 1**

## 189 Codes of practice

The Bank of England may publish codes of practice about—

- [<sup>F7</sup>(a)] the operation of recognised <sup>F8</sup>... payment systems; <sup>F9</sup>...
- [<sup>F10</sup>(b)] the provision of services by DSA service providers in relation to payment systems (whether or not recognised), or]
- [<sup>F11</sup>(c)] the provision of services by service providers to such systems [<sup>F12</sup>or to such DSA service providers].

### Textual Amendments

- F7** Words in s. 189 renumbered as s.189(a) (29.8.2023) by **Financial Services and Markets Act 2023** (c. 29), s. 86(2)(a), **Sch. 6 para. 16(a)**
- F8** Word in s. 189 omitted (27.6.2017) by virtue of **Digital Economy Act 2017** (c. 30), s. 118(2), **Sch. 9 para. 11**
- F9** Word in s. 189 omitted (29.8.2023) by virtue of **Financial Services and Markets Act 2023** (c. 29), s. 86(2)(a), **Sch. 6 para. 16(c)**
- F10** S. 189(b) inserted (29.8.2023) by **Financial Services and Markets Act 2023** (c. 29), s. 86(2)(a), **Sch. 6 para. 16(b)**
- F11** Words in s. 189 renumbered as s. 189(c) (29.8.2023) by **Financial Services and Markets Act 2023** (c. 29), s. 86(2)(a), **Sch. 6 para. 16(d)**
- F12** Words in s. 189(c) inserted (29.8.2023) by **Financial Services and Markets Act 2023** (c. 29), s. 86(2)(a), **Sch. 6 para. 16(e)**

### Commencement Information

- I2** S. 189 in force at 12.11.2009 for specified purposes and 31.12.2009 in so far as not already in force by S.I. 2009/3000, art. 4, **Sch. para. 1**

## 190 System rules

- (1) The Bank of England may require the operator of a recognised <sup>F13</sup>... payment system—
- (a) to establish rules for the operation of the system [<sup>F14</sup>including the operation of services that form part of the arrangements constituting [<sup>F15</sup>, or connected with,] the system and are provided by a service provider][<sup>F16</sup>, or a DSA service provider];
  - (b) to change the rules in a specified way or so as to achieve a specified purpose;
  - (c) to notify the Bank of any proposed change to the rules;
  - (d) not to change the rules without the approval of the Bank.
- (2) A requirement under subsection (1)(c) or (d) may be general or specific.

### Textual Amendments

- F13** Word in s. 190(1) omitted (27.6.2017) by virtue of **Digital Economy Act 2017** (c. 30), s. 118(2), **Sch. 9 para. 12**

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- F14** Words in s. 190(1)(a) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(10)**
- F15** Words in s. 190(1)(a) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), **Sch. 6 para. 17(a)**
- F16** Words in s. 190(1)(a) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), **Sch. 6 para. 17(b)**

#### Commencement Information

- I3** S. 190 in force at 31.12.2009 by [S.I. 2009/3000](#), art. 4, **Sch. para. 1**

### [<sup>F17</sup>190A Service provider rules

- (1) The Bank of England may require a recognised DSA service provider—
- to establish rules for the operation of services provided by the recognised DSA service provider;
  - to establish rules for the operation of services provided by a service provider to the recognised DSA service provider;
  - to change the rules in a specified way or so as to achieve a specified purpose;
  - to notify the Bank of any proposed change to the rules;
  - not to change the rules without the approval of the Bank.
- (2) A requirement under subsection (1)(d) or (e) may be general or specific.]

#### Textual Amendments

- F17** S. 190A inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), **Sch. 6 para. 18**

### [<sup>F18</sup>191 Directions

- (1) The Bank of England may give directions in writing to—
- <sup>F19</sup>(a) the operator of a recognised <sup>F20</sup>... [<sup>F21</sup>payment] system,
  - <sup>F22</sup>(b) to a recognised DSA service provider,] or
  - <sup>F23</sup>(c) [<sup>F24</sup> a service provider in relation to such a system [<sup>F25</sup>or to such DSA service providers].]
- (2) A direction may—
- require or prohibit the taking of specified action in the operation of the system [<sup>F26</sup>or the provision of services <sup>F27</sup>...];
  - set standards to be met in the operation of the system [<sup>F28</sup>or the provision of services <sup>F29</sup>...].
- (3) If a direction is given for the purpose of resolving or reducing a threat to the stability of the UK financial system, the operator [<sup>F30</sup>, DSA service provider][<sup>F31</sup>or service provider] (including [<sup>F32</sup>the operator's [<sup>F33</sup>, DSA service provider's] or service provider's] officers and staff) has immunity from liability in damages in respect of action or inaction in accordance with the direction.
- (4) A direction given for the purpose mentioned in subsection (3) must—
- include a statement that it is given for that purpose, and

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- (b) inform the operator [<sup>F34</sup>, DSA service provider]<sup>F35</sup> or service provider] of the effect of that subsection.
- (5) The Treasury may by order confer immunity on any person from liability in damages in respect of action or inaction in accordance with a direction (including a direction given for the purpose mentioned in subsection (3)).
- (6) An order—
  - (a) is to be made by statutory instrument, and
  - (b) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) An immunity conferred by or under this section does not extend to action or inaction—
  - (a) in bad faith, or
  - (b) in contravention of section 6(1) of the Human Rights Act 1998.]

#### Textual Amendments

- F18** S. 191 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(3)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F19** Words in s. 191(1) renumbered as s. 191(1)(a) (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 19\(2\)\(a\)](#)
- F20** Word in s. 191(1) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(2), [Sch. 9 para. 13](#)
- F21** Word in s. 191(1) inserted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 10 para. 8](#); [S.I. 2014/377](#), art. 2(1)(a), [Sch. Pt. 1](#)
- F22** S. 191(1)(b) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 19\(2\)\(b\)](#)
- F23** Words in s. 191(1) renumbered as s. 191(1)(c) (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 19\(2\)\(c\)](#)
- F24** Words in s. 191(1) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), [2\(11\)\(a\)](#)
- F25** Words in s. 191(1)(c) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 19\(2\)\(d\)](#)
- F26** Words in s. 191(2)(a) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), [2\(11\)\(b\)](#)
- F27** Words in s. 191(2)(a) omitted (29.8.2023) by virtue of [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 19\(3\)\(a\)](#)
- F28** Words in s. 191(2)(b) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), [2\(11\)\(b\)](#)
- F29** Words in s. 191(2)(b) omitted (29.8.2023) by virtue of [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 19\(3\)\(b\)](#)
- F30** Words in s. 191(3) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 19\(4\)\(a\)](#)
- F31** Words in s. 191(3) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), [2\(11\)\(c\)\(i\)](#)
- F32** Words in s. 191(3) substituted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), [2\(11\)\(c\)\(ii\)](#)
- F33** Words in s. 191(3) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 19\(4\)\(b\)](#)
- F34** Words in s. 191(4)(b) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 19\(5\)](#)

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**F35** Words in s. 191(4)(b) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(11)(d)**

## 192 Role of <sup>F36</sup>FCA and PRA]

(1) In exercising powers under this Part the Bank of England shall have regard to any action that <sup>F37</sup>the FCA or the PRA] has taken or could take.

<sup>F38</sup>(2) The Bank of England—

- (a) must consult the FCA before taking action under this Part in respect of a recognised <sup>F39</sup>... payment system the operator of which satisfies section 186(2)(a) <sup>F40</sup>, a service provider in relation to such a system or a service provider which itself satisfies section 186(2)(a)] and
- (b) must consult the PRA before taking action under this Part in respect of a recognised <sup>F39</sup>... payment system the operator of which satisfies section 186(2)(b)] <sup>F41</sup>, a service provider in relation to such a system or a service provider which itself satisfies section 186(2)(b)].

(3) If <sup>F42</sup>the FCA or the PRA] gives the Bank of England notice that <sup>F43</sup>it] is considering taking action in respect of the operator of a recognised <sup>F44</sup>... payment system who satisfies <sup>F45</sup>section 186(2)(a) or (b)] <sup>F46</sup>, a service provider in relation to such a system or a service provider which itself satisfies section 186(2)(a) or (b)] the Bank may not take action under this Part in respect of the operator <sup>F47</sup>or service provider] unless—

- (a) <sup>F48</sup>the FCA or (as the case may be) the PRA] consents, or
- (b) the notice is withdrawn.

### Textual Amendments

- F36** Words in s. 192 heading substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(6)(d)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F37** Words in s. 192(1) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(6)(a)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F38** S. 192(2) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(6)(b)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F39** Word in s. 192(2)(a)(b) omitted (27.6.2017) by virtue of Digital Economy Act 2017 (c. 30), s. 118(2), **Sch. 9 para. 14**
- F40** Words in s. 192(2)(a) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(12)(a)(i)**
- F41** Words in s. 192(2)(b) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(12)(a)(ii)**
- F42** Words in s. 192(3) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(6)(c)(i)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F43** Word in s. 192(3) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(6)(c)(ii)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F44** Word in s. 192(3) omitted (27.6.2017) by virtue of Digital Economy Act 2017 (c. 30), s. 118(2), **Sch. 9 para. 14**
- F45** Words in s. 192(3) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(6)(c)(iii)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F46** Words in s. 192(3) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(12)(b)(i)**
- F47** Words in s. 192(3) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(12)(b)(ii)**

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**F48** Words in s. 192(3)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 104\(6\)\(c\)\(iv\)](#), [122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

**Commencement Information**

**I4** S. 192 in force at 12.11.2009 for specified purposes and 31.12.2009 in so far as not already in force by [S.I. 2009/3000](#), arts. 2, 4, [Sch. para. 1](#)

**[<sup>F49</sup>192A Power of Bank to require FCA to refrain from specified action**

- (1) Where the first, second and third conditions are met, the Bank of England may give a direction under this section to the FCA.
- (2) The first condition is that the FCA is proposing to exercise any of its powers in relation to—
  - (a) a recognised payment system that includes arrangements using digital settlement assets, or
  - (b) a recognised DSA service provider.
- (3) The second condition is that the Bank of England is of the opinion that the exercise of the power in the manner proposed may—
  - (a) threaten the stability of the UK financial system,
  - (b) have serious consequences for business or other interests in the United Kingdom (including for the payment system or provider in relation to which the powers are proposed to be exercised), or
  - (c) have an adverse effect on the Bank’s ability to act in its capacity as a monetary authority.
- (4) The third condition is that the Bank of England is of the opinion that the giving of the direction is necessary in order to avoid an outcome mentioned in subsection (3).
- (5) A direction under this section is a direction requiring the FCA not to exercise the power or not to exercise it in a specified manner.
- (6) The direction may be expressed to have effect during a specified period or until revoked.
- (7) The FCA is not required to comply with a direction under this section if or to the extent that in the opinion of the FCA compliance would be incompatible with any international obligation of the United Kingdom.]

**Textual Amendments**

**F49** [S. 192A](#) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 20](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(8A)(8B) inserted by [2012 c. 21 s. 96\(3\)](#)
- s. 8(2)(d) and word inserted by [2012 c. 21 s. 96\(4\)\(b\)](#)