



Financial Services Act 2012

2012 CHAPTER 21

PART 8

AMENDMENTS OF BANKING ACT 2009

Special resolution regime and bank administration

101 Application to investment firms

- (1) The Banking Act 2009 is amended as follows.
- (2) In section 1 (overview), after the entry in the Table relating to sections 84 to 89 insert—

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|--------------|--------------------|
| “Section 89A | Investment firms”. |
|--------------|--------------------|

- (3) In section 2 (interpretation: “bank”), at the end insert—
 - “(8) Section 89A applies this Part to investment firms with modifications.”
- (4) In section 75(5) (power to change law: application to other institutions), omit the “or” following paragraph (c) and after that paragraph insert—
 - “(ca) to investment firms.”
- (5) After section 89 (and in Part 1) insert—

“Investment firms

89A Application to investment firms

- (1) This Part applies to investment firms as it applies to banks, subject to the modifications in subsection (2).
- (2) Ignore sections 1(2)(b), 4(2)(b) and (6), 5(1)(b), 7(7), 8(2)(c) and 14(5).”

Changes to legislation: Financial Services Act 2012, Section 101 is up to date with all changes known to be in force on or before 21 April 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) View outstanding changes

(6) After section 159 insert—

“159A Application to investment firms

This Part applies to investment firms as it applies to banks.”

(7) After section 258 insert—

“258A Investment firm”

- (1) In this Act “investment firm” means a UK institution which is (or, but for the exercise of a stabilisation power, would be) an investment firm for the purposes of Directive [2006/49/EC](#) on the capital adequacy of investment firms and credit institutions.
- (2) But “investment firm” does not include—
 - (a) an institution which is also—
 - (i) a bank (within the meaning of Part 1),
 - (ii) a building society (within the meaning of section 119 of the Building Societies Act 1986), or
 - (iii) a credit union (within the meaning of section 31 of the Credit Unions Act 1979 or Article 2(2) of the Credit Unions (Northern Ireland) Order 1985), or
 - (b) an institution which is of a class or description specified in an order made by the Treasury.
- (3) An order—
 - (a) is to be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (4) If an order contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without complying with subsection (3)(b)—
 - (a) the order may be made, and
 - (b) the order lapses unless approved by resolution of each House of Parliament during the period of 28 days (ignoring periods of dissolution, prorogation or adjournment of either House for more than 4 days) beginning with the day on which the order is made.
- (5) The lapse of an order under subsection (4)(b)—
 - (a) does not invalidate anything done under or in reliance on the order before the lapse and at a time when neither House has declined to approve the order, and
 - (b) does not prevent the making of a new order (in new terms).
- (6) In subsection (1) “UK institution” means an institution which is incorporated in, or formed under the law of any part of, the United Kingdom.”
- (8) In the Table in section 259 (statutory instruments), in Part 7 after the entry relating to section 257 insert—

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| | | |
|-------|------------------------------|---|
| “258A | Meaning of “investment firm” | Draft affirmative resolution (except for urgent cases)” |
|-------|------------------------------|---|

(9) In the Table in section 261 (index of defined terms), after the entry relating to “inter-bank payment system”, insert—

| | | |
|------------------|--|--------|
| “Investment firm | | 258A”. |
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(10) In section 214B(1)(a) of FSMA 2000 (contribution to costs of special resolution regime) for “or credit union” substitute “, credit union or investment firm ”.

Commencement Information

- I1** S. 101(1)(7)-(9) in force at 5.6.2014 for specified purposes by S.I. 2014/1447, **art. 2(d)(f)**
- I2** S. 101(1)(5)(7)-(9) in force at 1.8.2014 in so far as not already in force by S.I. 2014/1847, **art. 2**
- I3** S. 101(2)-(4)(6)(10) in force at 1.8.2014 by S.I. 2014/1847, **art. 2**
- I4** S. 101(5) in force at 5.6.2014 for specified purposes by S.I. 2014/1447, **art. 2(e)**

Changes to legislation:

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

- Act power to apply conferred (temp.) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp.) by [2014 c. 21 s. 81\(10\)](#)