

Financial Services (Banking Reform) Bill

Government annotated amendments: Provisions for PRA Reporting Requirements (clause 6)

(1) In Schedule 1ZB to FSMA 2000 (the Prudential Regulation Authority), paragraph 19 (annual report) is amended as follows.

(2) After sub-paragraph (1) insert –

“(1A) In the report the PRA must also report in general terms on –

(a) the extent to which, in its opinion, ring-fenced bodies have complied with the ring-fencing provisions,

(b) steps taken by ring-fenced bodies in order to comply with the ring-fencing provisions,

(c) steps taken by it to enforce the ring-fencing provisions, and

(d) the extent to which ring-fenced bodies appear to it to have acted in accordance with any guidance which it has given to ring-fenced bodies and which relates to the operation of the ring-fencing provisions.

The PRA must report annually on how RFBs are complying with the ring-fence as part of the annual report that it must make to the Treasury.

() the extent to which ring-fenced bodies are carrying on the regulated activity of dealing in investments as principal (whether in the United Kingdom or elsewhere) in circumstances where as a result of an order under section 142D(2) that activity is not an excluded activity,

The PRA will, in its annual report to be laid before Parliament, report on the extent to which ring-fenced banks have made use of any exemptions which the Treasury creates from the excluded activity of dealing in investments as principal.

Information published under this requirement will include the extent to which ring-fenced bodies are trading in derivatives, or selling derivatives to their customers in reliance on exemptions set out in secondary legislation (see for example article 6 of the draft Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 201*,

published for consultation in *Banking Reform: draft secondary legislation* in July 2013).

() the extent to which ring-fenced bodies are carrying on activities that would be excluded activities by virtue of an order under section 142D(4) but for an exemption or exclusion made by such an order,

The Treasury propose to make commodities trading an excluded activity by order made under s. 142(D). Since this order also creates an exemption from this excluded activity for ring-fenced banks dealing with a central bank, the PRA will also need to report on the extent to which this is used.

If a future Government chooses to create further excluded activities which a ring-fenced bank may not do, then the PRA would also need to report on the extent to which any exemptions to such a new excluded activity are used by ring-fenced banks.

() the extent to which ring-fenced bodies are doing things that they would be prohibited from doing by an order under section 142E but for an exemption made by such an order,‘.

The PRA will also have to report on the extent to which exemptions to prohibitions on ring-fenced banks are being used.

One of the prohibitions currently proposes is a prohibition on transactions which give rise to exposures to financial institutions. This will be accompanied by a number of exemptions (see article 8 of the draft Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 201*, published for consultation in *Banking Reform: draft secondary legislation* in July 2013). If an order is made in these terms, the PRA would therefore need to include information in its report to Parliament on the extent to which ring-fenced bodies have incurred to financial institutions for the purpose of:

- risk management;
- transactions resulting in payments or settlements exposures; and
- transactions related to letters of credit and guarantees.

The PRA would also have to report on any future exemption that can be made by the Government through an order made under s. 142E(4)(a) of the Bill.

(1B) In sub-paragraph (1A) –

- (a) references to “ring-fenced bodies” relate only to ring-fenced bodies that are PRA-authorised persons, and
- (b) “the ring-fencing provisions” means ring-fencing rules and the duty imposed as a result of section 142G.”

The PRA is only required to report on PRA authorised persons (we expect that all ring-fenced bodies will be authorised by the PRA). The report must cover compliance with any ring-fencing rules made by the regulator, as well as compliance with the duty for ring-fenced bodies not to carry on excluded activities, or to breach prohibitions imposed under section 142E.

- (3) In sub-paragraph (2), for “Sub-paragraph (1) does not” substitute “Subparagraphs (1) and (1A) do not”.