



# Financial Services (Banking Reform) Act 2013

## 2013 CHAPTER 33

### PART 6

#### SPECIAL ADMINISTRATION FOR OPERATORS OF CERTAIN INFRASTRUCTURE SYSTEMS

##### *FMI administration orders*

#### **115 Objective of FMI administration**

- (1) Where an FMI administrator is appointed in relation to the operator of a recognised inter-bank payment system or a securities settlement system, the objective of the FMI administration is—
  - (a) to ensure that the system is and continues to be maintained and operated as an efficient and effective system,
  - (b) where the operator of the system is also a clearing house falling within section 285(1)(b)(ii) of FSMA 2000 (recognised clearing house that is not a recognised central counterparty), to ensure that the protected activities continue to be carried on, and
  - (c) to ensure by one or both of the specified means that it becomes unnecessary for the FMI administration order to remain in force for that purpose or those purposes.
- (2) Where an FMI administrator is appointed in relation to a company designated under subsection (4) of section 112, the objective of the FMI administration is—
  - (a) to ensure that services falling within that subsection continue to be provided, and
  - (b) to ensure by one or both of the specified means that it becomes unnecessary for the FMI administration order to remain in force for that purpose.
- (3) The protected activities referred to in subsection (1)(b) are such activities as the Bank of England may from time to time direct, which must be—

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*Status: This is the original version (as it was originally enacted).*

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- (a) regulated activities falling within section 285(3)(a) or (b) of FSMA 2000, or
  - (b) related activities which are necessary for the efficient carrying on of any of those regulated activities.
- (4) The specified means are—
  - (a) the rescue as a going concern of the company subject to the FMI administration order, and
  - (b) transfers falling within subsection (5).
- (5) A transfer falls within this subsection if it is a transfer as a going concern—
  - (a) to another company, or
  - (b) as respects different parts of the undertaking of the company subject to the FMI administration order, to two or more different companies,of so much of that undertaking as it is appropriate to transfer for the purpose of achieving the objective of the FMI administration.
- (6) The means by which transfers falling within subsection (5) may be effected include, in particular—
  - (a) a transfer of the undertaking of the company subject to the FMI administration order, or of part of its undertaking, to a wholly-owned subsidiary of that company, and
  - (b) the transfer to a company of securities of a wholly-owned subsidiary to which there has been a transfer falling within paragraph (a).
- (7) The objective of the FMI administration may be achieved by transfers falling within subsection (5) only to the extent that—
  - (a) the rescue as a going concern of the company subject to the FMI administration order is not reasonably practicable or is not reasonably practicable without such transfers,
  - (b) the rescue of that company as a going concern will not achieve that objective or will not do so without such transfers, or
  - (c) such transfers would produce a result for the company’s creditors as a whole that is better than the result that would be produced without them.