

Bank of England

Bank FMI 2013/1

Recognised Clearing House Rules Instrument 2013

The following rules are made by the Bank of England in accordance with section 138G of the Financial Services and Markets Act 2000¹ (“the Act”) as applied to the Bank by virtue of paragraph 10 of Schedule 17A to the Act.

Rule RCH 1 is made under section 293 of the Act, rule RCH 2 is made under sections 293 and 300B; and rule RCH 3 is made under section 166(9).

These rules are made on 25th March 2013 and come into force on 1st April 2013, immediately after section 29 of the Financial Services Act 2012² comes fully into force.

RCH 1 Appointment and resignation of key individuals

- 1.1 A UK RCH must give the Bank of England written notice, together with the information specified in paragraph 1.2:
 - (a) at least 30 days before the event, of a proposal to appoint or elect an individual as a key individual of the RCH;
 - (b) forthwith if a key individual has resigned as, or otherwise ceased to be, a key individual of the RCH.
- 1.2 The information specified for the purposes of this rule is:
 - (a) in relation to an individual’s appointment or election as a key individual:
 - (i) the individual’s name and date of birth;
 - (ii) a description of the responsibilities that the key individual will have in the post to which the appointment or election relates; and
 - (b) in relation to an individual’s resignation or ceasing to be a key individual, the individual’s name.
- 1.3 In this rule, in respect of an RCH, a ‘key individual’ means:
 - (a) its chairman, president or equivalent;
 - (b) its chief executive or equivalent;
 - (c) a member of its governing body;

¹ 2000 c.8.

² 2012 c.21.

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- (d) a person, alone or jointly with one or more others, who is responsible under the immediate authority of a person in (a), (b) or (c) or of a committee of the governing body for:
 - (i) the conduct of any regulated activity (as specified under section 22 of the Financial Services Act 2000) in respect of which the body is exempt from the general prohibition in section 19 as a result of section 285(2) or (3) (Exemption for recognised investment exchanges and clearing houses); or
 - (ii) any function materially relating to, or to matter arising from, the obligations to which the body is subject under or by virtue of that Act.

RCH 2 Extent of duty and notice requirements for proposal to make regulatory provisions

- 2.1 The duty in section 300B(1) of the Financial Services Act 2000 only applies in respect of a regulatory provision of the description specified in paragraph 2.2 which is not excluded under paragraph 2.3.
- 2.2 The specified regulatory provisions are those which (whether considered alone or together with any other regulatory provision) materially:
 - (a) increase disclosure, reporting or corporate governance requirements imposed on any person (whether directly or indirectly);
 - (b) limit access to, or use by, any person (whether directly or indirectly including, without limitation, through an amendment to fees or charges) of the facilities operated by the RCH proposing to make the regulatory provision; or
 - (c) add to the circumstances in which any person (whether directly or indirectly) may be liable to penalties or other sanctions or have liability in damages.
- 2.3 The duty in section 300B(1) does not apply to a regulatory provision to the extent that it:
 - (a) is required under EU law or any enactment or rule of law in the United Kingdom;
 - (b) specifies or amends standard terms relating to the provision of clearing services for any derivative;
 - (c) specifies or amends operating procedures which are reasonably consequential on any regulatory provision falling within sub-paragraph (b);

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- (d) is expressed to have effect for no longer than three months and which is made in response to an emergency event (including, without limitation, a war, terrorist attack or labour strike); or
 - (e) does not impose a requirement (including any obligation or burden) on persons affected (directly or indirectly) by it.
- 2.4 Where the duty in section 300B(1) applies, a written notice of a proposal by an RCH to make a regulatory provision must:
- (a) state expressly that it is a notice for the purpose of that section;
 - (b) contain full particulars of the proposed provision; and
 - (c) be accompanied by sufficient supporting information to enable the Bank of England to assess the purpose and effect of the proposed regulatory provision or, where such information has already been provided to the Bank of England, refer to such information.
- 2.5 A UK RCH must provide such additional information in connection with a notice under section 300B(1) as the Bank of England may reasonably require.

RCH 3 Fees in respect of expert reports

- 3.1 This rule applies where the Bank of England (“the Bank”) gives notice under section 166(5) of the Financial Services Act 2000 to the person concerned that the Bank has appointed a person under section 166(3)(b) to provide the Bank with a report on a matter.
- 3.2 Where the Bank notifies the person concerned in writing that the Bank has incurred expenses in relation to the appointment and specifies the amount of those expenses, the person concerned must pay those expenses to the Bank as a fee within 30 days.
- 3.3 The expenses may include any amount invoiced to the Bank by the appointed person in relation to any work carried out in connection with the matter.

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25th March 2013