



HSBC Investment Banking Act 2002

2002 CHAPTER iii

An Act to provide for the transfer of the investment banking business of HSBC Investment Bank plc to HSBC Bank plc and the transfer of the private banking business of HSBC Investment Bank plc to HSBC Republic Bank (UK) Limited; and for connected purposes. [7th November 2002]

WHEREAS HSBC Holdings plc (hereinafter called “HSBC Holdings”) is a public limited company incorporated in England under the Companies Act 1948 (c. 38) whose subsidiary companies carry on in the United Kingdom and elsewhere the businesses of banking and financial services and other related activities:

And whereas HSBC Investment Bank Holdings plc (hereinafter called “HSBC Investment Bank Holdings”) is a public limited company incorporated in England under the Companies Act 1985 (c. 6) whose subsidiary companies carry on in the United Kingdom and elsewhere the businesses of banking and financial services and other related activities:

And whereas HSBC Investment Bank plc (hereinafter called “HSBC Investment Bank”) is a public limited company incorporated in England under the Companies Acts 1948 to 1967 and carries on in the United Kingdom and elsewhere the businesses of banking and financial services and other related activities:

And whereas HSBC Bank plc (hereinafter called “HSBC Bank”) is a public limited company incorporated in England under the Companies Acts 1862 to 1879 and carries on in the United Kingdom and elsewhere the businesses of banking and financial services and other related activities:

And whereas HSBC Republic Bank (UK) Limited (hereinafter called “HSBC Republic Bank”) is a private limited company incorporated in England under the Companies Act 1948 and carries on in the United Kingdom the businesses of banking and financial services and other related activities:

And whereas HSBC Investment Bank Holdings, HSBC Investment Bank, HSBC Bank and HSBC Republic Bank are all wholly-owned subsidiaries of HSBC Holdings:

And whereas for the better conduct of the business of HSBC Investment Bank Holdings and its subsidiaries it is expedient—

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- (a) that provision be made for the transfer to, and vesting in, HSBC Bank of the undertaking of HSBC Investment Bank with the exception of its private banking business and for the transfer of that private banking business to, and the vesting of that private banking business in, HSBC Republic Bank; and
- (b) that the transfers should be effected economically and without interference with the conduct and continuity of the businesses carried on by HSBC Investment Bank Holdings or its subsidiaries:

And whereas it is expedient that the other provisions in this Act should be enacted:

And whereas the objects of this Act could not have been attained without the authority of Parliament when the Bill for this Act was deposited:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Short title

This Act may be cited as the HSBC Investment Banking Act 2002.

2 Interpretation

(1) In this Act, unless the subject or context otherwise requires—

“account” includes any contract or facility between a person and HSBC Investment Bank by virtue of which money or any unit of account is, or may be, deposited or borrowed by any person;

“appointed day” means such day as may, under section 4 (Appointed day) of this Act be appointed for the purposes of this Act;

“contract” includes any agreement, transaction, arrangement or understanding, whether or not conditional or in writing and whether or not governed by English law;

“convey” has the same meaning as in the Law of Property Act 1925 (c. 20);

“customer” includes any person having an account or other dealing or a contract with HSBC Investment Bank;

“document” means any thing in which information of any description is recorded;

“enactment” means any enactment in this Act or in any general or local Act or in any order, rule or regulation made under any Act;

“existing” means existing, outstanding or in force immediately before the appointed day;

“holding company” has the meaning given by sections 736 and 736A of the Companies Act 1985 (c. 6);

“HSBC Bank” means HSBC Bank plc;

“HSBC Investment Bank Holdings” means HSBC Investment Bank Holdings plc;

“HSBC Investment Bank” means HSBC Investment Bank plc;

“HSBC Republic Bank” means HSBC Republic Bank (UK) Limited;

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“investment banking business” means the undertaking except the private banking business;

“liability” includes a duty and an obligation of any description (whether present or future, actual, contingent or prospective);

“private banking business” means—

- (a) that part of the undertaking which is employed, or has been incurred, exclusively in the provision of private banking services through the branches of HSBC Investment Bank at 29-31 Hill Street, London W1, 33 George Street, London W1, 47 Berkeley Square, London W1 or any predecessor to any such branch; and
- (b) any other property, account, contract or liability of HSBC Investment Bank allocated by the directors of HSBC Investment Bank prior to the appointed day under **section 3** (Allocation of property etc. to Private Banking Business) of this Act;

“property” means property and assets of every description (whether present or future, actual, contingent or prospective) and includes property and assets held on trust or in a fiduciary capacity and security interests, rights, benefits and powers of every description;

“relevant successor bank” means in relation to the investment banking business HSBC Bank and in relation to the private banking business HSBC Republic Bank and any reference to a “relevant successor bank” in relation to any property or liability of HSBC Investment Bank which is transferred by virtue of this Act is a reference to whichever of HSBC Bank or HSBC Republic Bank such property or liability is transferred to by virtue of this Act;

“seal” includes a common seal and also any official seal which may be kept pursuant to section 39 or 40 of the Companies Act 1985 (c. 6);

“security interest” includes a mortgage or charge (whether legal or equitable), debenture, bill of exchange, promissory note, guarantee, lien, pledge (whether actual or constructive), hypothecation, assignment by way of security, indemnity, right of set-off, counterclaim, flawed asset arrangement, commitment or other means of securing payment or discharge of a debt or liability;

“subsidiary” has the meaning given by sections 736 and 736A of the Companies Act 1985;

“successor bank” means HSBC Bank or HSBC Republic Bank;

“trustee” includes—

- (a) a trustee or custodian trustee of any trust, settlement, covenant, contract or will (whether originally so appointed or not, and whether appointed under hand or by deed or by order of any court);
- (b) an executor of the will, or administrator of the estate, of a deceased person;
- (c) a judicial trustee appointed by order of any court;
- (d) an attorney for another person; and
- (e) any person acting in a fiduciary capacity;

“undertaking” means the business and all property and liabilities of HSBC Investment Bank of whatever nature, but does not include—

- (a) any seal, or
- (b) any documents relating to the constitution of HSBC Investment Bank, or

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- (c) those documents comprising registers, indices, or minute books usually required to be kept by HSBC Investment Bank at its registered office pursuant to the provisions of the Companies Act 1985 (c. 6), or
 - (d) any duties and obligations of HSBC Investment Bank in respect of its share capital;
- “will” includes a codicil and any other testamentary writing.

- (2) Any reference in this Act to property or liabilities of HSBC Investment Bank is a reference to property or liabilities—
- (a) wherever they are situated or arise;
 - (b) whether or not they are capable of being transferred or assigned by HSBC Investment Bank; and
 - (c) whether HSBC Investment Bank is entitled or subject to them under the law of any part of the United Kingdom or under the law of any country or territory outside the United Kingdom.

3 Allocation of property etc. to Private Banking Business

- (1) Prior to the appointed day the directors of HSBC Investment Bank may allocate any property, account, contract or liability of HSBC Investment Bank to the private banking business.
- (2) HSBC Investment Bank shall advertise concise details of any such allocation in the London Gazette, Edinburgh Gazette and Belfast Gazette prior to the appointed day.

4 Appointed day

- (1) The directors of HSBC Investment Bank Holdings may appoint a day to be the appointed day for the purposes of this Act.
- (2) Before the day so appointed, HSBC Investment Bank Holdings shall publish a notice in the London Gazette, the Edinburgh Gazette and the Belfast Gazette of the day so appointed, stating that it is the appointed day for the purposes of this Act.
- (3) The publication of a notice under subsection (2) above shall be conclusive evidence of the appointed day for the purposes of this Act, and a photocopy or other reproduction, certified by an authorised officer of HSBC Investment Bank Holdings, of a page or part of a page of the London Gazette, the Edinburgh Gazette or the Belfast Gazette containing the notice shall be conclusive evidence of publication of the notice.

5 Transfer to HSBC Bank plc and HSBC Republic Bank (UK) Limited

- (1) On the appointed day the investment banking business shall, by virtue of this Act and without further assurance, be transferred to, and vested in, HSBC Bank to the intent that HSBC Bank shall succeed to the investment banking business as if in all respects HSBC Bank were the same person in law as HSBC Investment Bank.
- (2) On the appointed day the private banking business shall, by virtue of this Act and without further assurance, be transferred to, and vested in, HSBC Republic Bank to the intent that HSBC Republic Bank shall succeed to the private banking business as if in all respects HSBC Republic Bank were the same person in law as HSBC Investment Bank.

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- (3) Where the transfer or vesting of any property or liability comprised in the investment banking business or the private banking business is governed by the law of any country or territory outside the United Kingdom, HSBC Investment Bank shall, if a successor bank so requires, take all necessary steps for securing that the transfer to the relevant successor bank of the property or liability is fully effective under the law of that country or territory.

6 Provisions as to trust property and wills

- (1) Any property transferred to, and vested in, a successor bank by virtue of this Act which immediately before the appointed day was held by HSBC Investment Bank whether alone or jointly with any other person, as trustee, shall, on and from the appointed day, be held by the relevant successor bank alone or, as the case may be, jointly with such other person in the same capacity upon the same trusts, and with and subject to the same powers, provisions and liabilities, as were applicable thereto prior to such transfer.

- (2) The following—

- (a) any existing instrument or order of any court under or by virtue of which any property became or may become vested in HSBC Investment Bank as trustee, and
- (b) any provision therein, or any existing contract for the payment to, or retention by, HSBC Investment Bank of remuneration for its services in any such capacity,

shall, on and from the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to HSBC Investment Bank, other than a reference (however worded and whether express or implied) to terms and conditions of, or to a rate, charge, tariff or scale of fees of, HSBC Investment Bank, there were substituted a reference to the relevant successor bank:

Provided that any right which was exercisable by HSBC Investment Bank to alter the terms and conditions or the rate, charge, tariff or scale of fees of HSBC Investment Bank shall after the appointed day be exercisable by the relevant successor bank.

- (3) The following—

- (a) any will made before the appointed day which has not been proved in any part of the United Kingdom before the appointed day, and
- (b) any will made on or after the appointed day, being a will which appoints HSBC Investment Bank to be a trustee or recipient of any property as trustee,

shall be construed and have effect as if for any reference therein to HSBC Investment Bank as such trustee or recipient or otherwise in connection with such appointment, not being a reference (however worded and whether express or implied) to terms and conditions of, or to a rate, charge, tariff or scale of fees of, HSBC Investment Bank, there were substituted a reference to HSBC Republic Bank:

Provided that any right which was exercisable by HSBC Investment Bank to alter the terms and conditions or the rate, charge, tariff or scale of fees of HSBC Investment Bank shall after the appointed day be exercisable by HSBC Republic Bank.

- (4) No testamentary gift shall be adeemed by reason only of the operation of any of the provisions of this Act.