

Status: Point in time view as at 31/12/2020.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Directions relating to consolidated supervision is up to date with all changes known to be in force on or before 15 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)



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 1A

THE REGULATORS

CHAPTER 3

FURTHER PROVISIONS RELATING TO FCA AND PRA

[^{F1}Directions relating to consolidated supervision

Textual Amendments

- F1** Pt. 1A substituted for Pt. 1 (24.1.2013 for specified purposes, 19.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 6\(1\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(b\)\(c\)\(2\)](#), [Sch. Pts. 2, 3, 4](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

3M Directions relating to consolidated supervision of groups

- (1) This section applies where one of the regulators (“the supervising regulator”), but not the other, is the competent authority for the purpose of consolidated supervision that is required in relation to some or all of the members of a group (“the relevant group”) in pursuance of [^{F2}—
- (a) any implementing provision contained in subordinate legislation (within the meaning of the Interpretation Act 1978) made otherwise than by any of the following—
 - (i) statutory instrument, and
 - (ii) statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)); or
 - (b) any other implementing provision (as amended from time to time),]

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- (2) “Consolidated supervision” includes supplementary supervision.
- [“Implementing provision” means an enactment that immediately before IP completion
- ^{F3}(2A) day implemented provisions of any of the relevant directives.]
- (3) The “relevant directives” are—
- (a) the [^{F4}capital requirements directive];
 - (b) Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate;
 - ^{F5}(c)
 - (d) Directive 2009/138/EC of the European Parliament and the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).
 [Directive 2014/59/EU of the European Parliament and of the Council of 15th
 - ^{F6}(e) May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.]
- (4) The supervising regulator may, if it considers it necessary to do so for the effective consolidated supervision of the relevant group, give the other regulator a direction under this section.
- (5) A direction under this section is a direction requiring the other regulator to exercise, or not to exercise, a relevant function in a specified manner in relation to authorised persons who are members of the relevant group.
- (6) The direction may relate to members of the relevant group other than the members in respect of which consolidated supervision is required.
- (7) A “relevant function”, in relation to either regulator, is a function conferred by or under this Act which relates to the regulation of authorised persons, but does not include—
- (a) the regulator's function of making rules under this Act;
 - (b) its function of preparing and issuing codes under this Act;
 - (c) its function of determining the general policy and principles by reference to which it performs particular functions;
 - (d) the FCA's functions in relation to the giving of general guidance;
 - (e) the PRA's functions in relation to the giving of guidance under section 2I;
 - (f) the FCA's functions in relation to consent for the purposes of section 55F or 55I.
- (8) The direction may not require the regulator to which it is given (“the directed regulator”) to do anything that it has no power to do, but the direction is relevant to the exercise of any discretion conferred on the directed regulator.
- (9) The directed regulator must comply with the direction as soon as practicable, but this is subject to subsections (10) and (11).
- (10) The directed regulator is not required to comply with a direction under this section if or to the extent that in its opinion compliance would be incompatible with any ^{F7}... international obligation of the United Kingdom.
- (11) Directions given by the FCA under this section are subject to any directions given to the FCA under section 3I or 3J.

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Textual Amendments

- F2** S. 3M(1)(a)(b) substituted for words in s. 3M(1) (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **10(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** S. 3M(2A) inserted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **10(3)** (as amended by S.I. 2020/1301, regs. 1, 3, [Sch. para. 33\(a\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F4** Words in s. 3M(3)(a) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), [Sch. 2 para. 3\(a\)](#)
- F5** S. 3M(3)(c) omitted (1.1.2014) by virtue of [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), [Sch. 2 para. 3\(b\)](#)
- F6** S. 3M(3)(e) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **113**
- F7** Words in s. 3M(10) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **10(4)**; 2020 c. 1, Sch. 5 para. 1(1)

3N Revocation of directions under section 3M

- (1) The supervising regulator may at any time by notice to the other regulator revoke a direction under section 3M.
- (2) The revocation of the direction does not affect the validity of anything previously done in accordance with it.
- (3) Expressions defined for the purposes of section 3M have the same meaning in this section.

3O Further provisions about directions under section 3M

- (1) Before giving a direction under section 3M, the supervising regulator must consult the other regulator.
- (2) A direction under section 3M must be given or confirmed in writing, and must be accompanied by a statement of the reasons for giving it.
- (3) A notice revoking a direction under section 3M must be given or confirmed in writing.
- (4) The regulator to which a direction under section 3M is given must give a copy of the direction and statement to each of the authorised persons to whom the direction relates.
- (5) The supervising regulator must publish the direction and statement, or the notice, in such manner as it thinks fit.
- (6) But subsection (4) or (5) does not apply in a case where the regulator on which the duty is imposed considers that compliance with that subsection would be against the public interest.
- (7) In a case where a regulator decides that compliance with subsection (4) or (5) would be against the public interest, the regulator must from time to time review that decision and if it subsequently decides that compliance is no longer against the public interest it must comply with the subsection.

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- (8) Expressions defined for the purposes of section 3M have the same meaning in this section.

3P Consultation by regulator complying with direction

- (1) If the directed regulator is required by this Act to consult any person other than the supervising regulator before exercising the relevant function to which the direction relates, the directed regulator must give the supervising regulator copies of any written representations received from the persons consulted.
- (2) Expressions defined for the purposes of section 3M have the same meaning in this section.]

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