



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART V

#### PERFORMANCE OF REGULATED ACTIVITIES

##### *Approval*

#### **59 Approval for particular arrangements.**

- (1) An authorised person (“A”) must take reasonable care to ensure that no person performs a controlled function under an arrangement entered into by A in relation to the carrying on by A of a regulated activity, unless [<sup>F1</sup>the appropriate regulator] approves the performance by that person of the controlled function to which the arrangement relates.
- (2) An authorised person (“A”) must take reasonable care to ensure that no person performs a controlled function under an arrangement entered into by a contractor of A in relation to the carrying on by A of a regulated activity, unless [<sup>F2</sup>the appropriate regulator] approves the performance by that person of the controlled function to which the arrangement relates.

[<sup>F3</sup>(3) “Controlled function”—

- (a) in relation to the carrying on of a regulated activity by a PRA-authorised person, means a function of a description specified in rules made by the FCA or the PRA, and
  - (b) in relation to the carrying on of a regulated activity by any other authorised person, means a function of a description specified in rules made by the FCA.
- (4) “The appropriate regulator”—
- (a) in relation to a controlled function which is of a description specified in rules made by the FCA, means the FCA, and
  - (b) in relation to a controlled function which is of a description specified in rules made by the PRA, means the PRA with the consent of the FCA.

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*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Approval is up to date with all changes known to be in force on or before 22 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)*

<sup>F4</sup>(5) .....

[<sup>F5</sup>(6) The PRA may specify a description of function under subsection (3)(a) only if, in relation to the carrying on of a regulated activity by a PRA-authorized person, it is satisfied that the function is a senior management function as defined in section 59ZA.]

[<sup>F6</sup>(6A) If—

- (a) a function of a description specified in rules made by the FCA under subsection (3)(a) or (b) is a controlled function in relation to the carrying on of a regulated activity by a relevant authorised person, and
- (b) the FCA is satisfied that, in relation to the carrying on of a regulated activity by a relevant authorised person, the function is a senior management function as defined in section 59ZA,

the FCA must designate the function in the rules as a senior management function.

(6B) If a function of a description specified in rules made by the PRA under subsection (3) (a) is a controlled function in relation to the carrying on of a regulated activity by a relevant authorised person, the PRA must designate the function in the rules as a senior management function.

(6C) For the meaning of “relevant authorised person”, see section 71A.]

<sup>F7</sup>(7) .....

<sup>F7</sup>(7A) .....

<sup>F7</sup>(7B) .....]

[<sup>F8</sup>(7C) A regulator may not exercise the power in subsection (3) so as to provide for a function to be a controlled function in relation to the carrying on of the regulated activity of managing an AIF by an AIFM which—

- (a) is also an AIF;
- (b) does not manage any AIF other than itself;
- (c) is a body corporate; and
- (d) is not a collective investment scheme.]

(8) Neither subsection (1) nor subsection (2) applies to an arrangement which allows a person to perform a function if the question of whether he is a fit and proper person to perform the function is reserved under any of the single market directives [<sup>F9</sup>or the emission allowance auctioning regulation] to an authority in a country or territory outside the United Kingdom.

<sup>F10</sup>(9) .....

(10) “Arrangement”—

- (a) means any kind of arrangement for the performance of a function of A which is entered into by A or any contractor of his with another person; and
- (b) includes, in particular, that other person’s appointment to an office, his becoming a partner or his employment (whether under a contract of service or otherwise).

<sup>F11</sup>(11) .....

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### Textual Amendments

- F1** Words in s. 59(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 14(1)(a)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F2** Words in s. 59(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 14(1)(a)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F3** S. 59(3)-(7B) substituted for s. 59(3)-(7) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 14(1)(b)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F4** S. 59(5) omitted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 18(2)**, 148(5); [S.I. 2014/1819](#), art. 2(2)(a); [S.I. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F5** S. 59(6) substituted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 18(3)**, 148(5); [S.I. 2014/1819](#), art. 2(2)(a); [S.I. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F6** S. 59(6A)-(6C) inserted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 18(4)**, 148(5); [S.I. 2014/1819](#), art. 2(2)(a); [S.I. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F7** S. 59(7)-(7B) omitted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 18(5)**, 148(5); [S.I. 2014/1819](#), art. 2(2)(a); [S.I. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F8** S. 59(7C) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 7**
- F9** Words in s. 59(8) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **3(4)**
- F10** S. 59(9) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 3** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F11** S. 59(11) omitted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 18(5)**, 148(5); [S.I. 2014/1819](#), art. 2(2)(a); [S.I. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))

### Modifications etc. (not altering text)

- C1** S. 59 extended (1.12.2001) by [S.I. 2001/2636](#), **arts. 1(2)(b)**, 74(2), 76(2); [S.I. 2001/3538](#), **art. 2(1)**  
S. 59 extended (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 49(1) (with art. 23(2))
- C2** S. 59 modified (29.9.2008 at 8.00 a.m.) by [The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), **art. 15(1)**
- C3** S. 59 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), **arts. 1(2)**, 34, {[Sch. paras. 1, 3](#)}
- C4** S. 59 modified (1.1.2010) by [The Northern Rock plc Transfer Order 2009 \(S.I. 2009/3226\)](#), arts. 1(2)(b), **10**
- C5** S. 59(1) extended (1.12.2001) by [S.I. 2001/2636](#), **arts. 1(2)(b)**, 75(2); [S.I. 2001/3538](#), **art. 2(1)**

### Commencement Information

- I1** S. 59 wholly in force at 1.12.2001; s. 59 not in force at Royal Assent see s. 431(2); s. 59 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), **art. 2**, **Sch.**; s. 59 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; s. 59 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

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## [<sup>F12</sup>59ZASenior management functions

- (1) This section has effect for determining whether a function is for the purposes of section 59(6) or (6A) a senior management function.
- (2) A function is a “senior management function”, in relation to the carrying on of a regulated activity by an authorised person, if—
  - (a) the function will require the person performing it to be responsible for managing one or more aspects of the authorised person's affairs, so far as relating to the activity, and
  - (b) those aspects involve, or might involve, a risk of serious consequences—
    - (i) for the authorised person, or
    - (ii) for business or other interests in the United Kingdom.
- (3) In subsection (2)(a) the reference to managing one or more aspects of an authorised person's affairs includes a reference to taking decisions, or participating in the taking of decisions, about how one or more aspects of those affairs should be carried on.]

### Textual Amendments

**F12** S. 59ZA inserted (25.7.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 19**, 148(5); [S.I. 2014/1819](#), art. 2(1)(a)

## [<sup>F13</sup>59A Specifying functions as controlled functions: supplementary

- (1) The FCA must—
    - (a) keep under review the exercise of its power under section 59(3)(a) to specify any [<sup>F14</sup>senior management] function as a controlled function, and
    - (b) exercise that power in a way that it considers will minimise the likelihood that approvals fall to be given by both the FCA and the PRA in respect of the performance by a person of [<sup>F14</sup>senior management] functions in relation to the carrying on of a regulated activity by the same PRA-authorised person.
  - (2) The FCA and the PRA must each consult the other before exercising any power under section 59(3)(a).
  - (3) Any reference in this section to the exercise of a power includes its exercise by way of amendment or revocation of provision previously made in the exercise of the power.
- [ “Senior management function” has the meaning given by section 59ZA.]
- <sup>F15</sup>(3A)
- (4) “Approval” means an approval under section 59.
  - (5) Any expression which is used both in this section and section 59 has the same meaning in this section as in that section.

### Textual Amendments

**F13** Ss. 59A, 59B inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 14(2)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

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- F14** Words in s. 59A(1)(a)(b) substituted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), s. 148\(5\), Sch. 3 para. 2\(2\)](#); [S.I. 2014/1819, art. 2\(4\)\(a\)](#); [S.I. 2015/490, art. 2\(1\)\(b\)](#) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F15** S. 59A(3A) inserted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), s. 148\(5\), Sch. 3 para. 2\(3\)](#); [S.I. 2014/1819, art. 2\(4\)\(a\)](#); [S.I. 2015/490, art. 2\(1\)\(b\)](#) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))

## **59B Role of FCA in relation to PRA decisions**

- (1) The FCA may arrange with the PRA that in such cases as may be described in the arrangements the PRA may give approval under section 59 without obtaining the consent of the FCA.
- (2) Arrangements under this section must be in writing, and must specify the date on which they come into force.
- (3) The regulators must publish any arrangements under this section in such manner as they think fit.
- (4) Section 59(4)(b) has effect subject to any arrangements in force under this section.]

### **Textual Amendments**

- F13** Ss. 59A, 59B inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), ss. 14\(2\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)

## **60 Applications for approval.**

- (1) An application for the [<sup>F16</sup>appropriate regulator's] approval under section 59 may be made by the authorised person concerned.
- (2) The application must—
  - (a) be made in such manner as the [<sup>F16</sup>appropriate regulator] may direct; and
  - (b) contain, or be accompanied by, such information as the [<sup>F16</sup>appropriate regulator] may reasonably require.

[<sup>F17</sup>(2A) If—

- (a) the application is for the approval of a person to perform a designated senior management function, and
- (b) the authorised person concerned is a relevant authorised person (see section 71A),

the appropriate regulator must require the application to contain, or be accompanied by, a statement setting out the aspects of the affairs of the authorised person concerned which it is intended that the person will be responsible for managing in performing the function.

- (2B) A statement provided under subsection (2A) is known as a “statement of responsibilities”.

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- (2C) In subsection (2A) “designated senior management function” means a function designated as a senior management function under section 59(6A) or (6B).]
- [<sup>F18</sup>(3) At any time after the application is received and before it is determined, the appropriate regulator may require the applicant to provide it with such further information as it reasonably considers necessary to enable it to determine the application or, as the case requires, to decide whether to give consent.]
- (4) The [<sup>F16</sup>appropriate regulator] may require an applicant to present information which he is required to give under this section in such form, or to verify it in such a way, as the [<sup>F16</sup>appropriate regulator] may direct.
- (5) Different directions may be given, and different requirements imposed, in relation to different applications or categories of application.
- (6) “The authorised person concerned” includes a person who has applied for permission under [<sup>F19</sup>Part 4A] and will be the authorised person concerned if permission is given.
- [<sup>F20</sup>(6A) Subsection (6) applies to references to a relevant authorised person as it applies to references to the authorised person concerned.]
- [<sup>F21</sup>(7) The PRA must consult the FCA before—
- (a) giving a direction under subsection (2)(a) in relation to a class of applicants, or
  - (b) imposing a requirement under subsection (2)(b) on a class of applicants.
- (8) The PRA must as soon as practicable notify the FCA of the receipt or withdrawal of an application to the PRA, unless the case is one in which by virtue of arrangements under section 59B the consent of the FCA is not required.
- (9) “The appropriate regulator”—
- (a) in relation to a controlled function which is of a description specified in rules made by the FCA, means the FCA;
  - (b) in relation to a controlled function which is of a description specified in rules made by the PRA, means the PRA, and for the purposes of subsection (3) also includes the FCA in cases where the consent of the FCA is required.]

#### Textual Amendments

- F16** Words in s. 60 substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 4\(1\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F17** S. 60(2A)-(2C) inserted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 20\(2\)](#), 148(5); S.I. 2014/1819, art. 2(3); S.I. 2015/490, art. 2(1)(b) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F18** S. 60(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 4\(2\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F19** Words in s. 60(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 4\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F20** S. 60(6A) inserted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 20\(3\)](#), 148(5); S.I. 2014/1819, art. 2(3); S.I.

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2015/490, art. 2(1)(b) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))

**F21** S. 60(7)-(9) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 4(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

#### **Modifications etc. (not altering text)**

**C6** S. 60 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2), 3(3)**; S.I. 2001/3538, **art. 2(1)**

S. 60 modified (*temp.* from 31.10.2001) by S.I. 2001/3374, **arts. 1, 11**

S. 60: “the authorised person concerned” extended (1.12.2001) by S.I. 2001/2511, **regs. 1(1), 10**; S.I. 2001/3538, **art. 2(1)**

S. 60 extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2), 50(1), 51(1), 53(1)** (with art. 23(2))

**C7** Ss. 56, 60 modified (*temp.*) (8.4.2002) by The Financial Services and Markets Act 2000 (Permission and Applications) (Credit Unions etc.) Order 2002 (S.I. 2002/704), **art. 7**

**C8** S. 60 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2009 (S.I. 2009/1342), **arts. 1(2), 34**, {Sch. paras. 1, 3}

**C9** Ss. 60-63 applied (with modifications) (31.12.2011) by The Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), **art. 8**

**C10** S. 60(3) extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2), 50(5)** (with art. 23(2))

#### **Commencement Information**

**I2** S. 60 wholly in force at 1.12.2001; s. 60 not in force at Royal Assent see s. 431(2); s. 60(2)(4) in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2, Sch.**; s. 60 in force for specified purposes at 3.9.2001 by S.I. 2001/2632, **art. 2(2), Sch. Pt. 2**; s. 60 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

## **61 Determination of applications.**

(1) [<sup>F22</sup>The regulator to which an application is made under section 60 may grant the application] only if it is satisfied that the person in respect of whom the application is made (“the candidate”) is a fit and proper person to perform the function to which the application relates.

(2) In deciding that question, [<sup>F23</sup>the regulator] may have regard (among other things) to whether the candidate, or any person who may perform a function on his behalf—

- (a) has obtained a qualification,
- (b) has undergone, or is undergoing, training, or
- (c) possesses a level of competence,

required by general rules [<sup>F24</sup>made by that regulator] in relation to persons performing functions of the kind to which the application relates.

[<sup>F25</sup>(2A) Subsections (1) and (2) apply in relation to the giving by the FCA of any required consent as they apply in relation to the grant of the application.]

(3) [<sup>F26</sup>The regulator to which an application is made under section 60 must, before the end of the period for consideration, determine] whether—

- (a) to grant the application; or
- (b) to give a warning notice under section 62(2).

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[<sup>F27</sup>(3A) The period for consideration”—

- (a) in any case where the application under section 60 is made by a person applying for permission under Part 4A (see section 60(6)), means whichever ends last of—
    - (i) the period within which the application for that permission must be determined under section 55V(1) or (2), and
    - (ii) the period of 3 months beginning with the date on which the regulator receives the application under section 60, and
  - (b) in any other case, means the period of 3 months beginning with the date on which the regulator receives the application under section 60.]
- (4) If [<sup>F28</sup>a regulator] imposes a requirement under section 60(3), the period for consideration stops running on the day on which the requirement is imposed but starts running again—
- (a) on the day on which the required information is received by [<sup>F28</sup>a regulator]; or
  - (b) if the information is not provided on a single day, on the last of the days on which it is received by [<sup>F28</sup>a regulator].
- (5) A person who makes an application under section 60 may withdraw his application by giving written notice to the [<sup>F29</sup>regulator to which the application was made] at any time before the [<sup>F30</sup>regulator] determines it, but only with the consent of—
- (a) the candidate; and
  - (b) the person by whom the candidate is to be retained to perform the function concerned, if not the applicant.

#### Textual Amendments

- F22** Words in s. 61(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 5\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F23** Words in s. 61(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 5\(3\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F24** Words in s. 61(2) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 5\(3\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F25** S. 61(2A) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 5\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F26** Words in s. 61(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 5\(5\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F27** S. 61(3A) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 5\(6\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F28** Words in s. 61(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 5\(7\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F29** Words in s. 61(5) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 5\(8\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F30** Word in s. 61(5) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 5\(8\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

#### Modifications etc. (not altering text)

- C11** S. 61 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\), arts. 1\(2\), 34, {Sch. paras. 1, 3}](#)



*Status: Point in time view as at 01/04/2015.*

**Changes to legislation:** Financial Services and Markets Act 2000, Cross Heading: Approval is up to date with all changes known to be in force on or before 22 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)

- C12** Ss. 60-63 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), [art. 8](#)
- C13** S. 61(3) modified (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 49(3), 53(2) (with [art. 23\(2\)](#))
- C14** S. 61(3) excluded (1.1.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), [arts. 1\(2\)](#), [28\(2\)](#)
- C15** S. 61(3) excluded (1.1.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), [arts. 1\(2\)](#), [24\(2\)](#), [26\(2\)](#)

#### Commencement Information

- I3** S. 61 wholly in force at 1.12.2001; s. 61 not in force at Royal Assent see [s. 431\(2\)](#); s. 61 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), [art. 2\(2\)](#), [Sch. Pt. 2](#); s. 61 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

## 62 Applications for approval: procedure and right to refer to Tribunal.

- (1) [<sup>F31</sup>If the regulator to which an application is made under section 60 (“an application”) decides to grant the application, it] must give written notice of its decision to each of the interested parties.
- (2) If [<sup>F32</sup>the regulator to which an application is made] proposes to refuse [<sup>F33</sup>the application], it must give a warning notice to each of the interested parties.
- (3) If [<sup>F32</sup>the regulator to which an application is made] decides to refuse [<sup>F33</sup>the application], it must give a decision notice to each of the interested parties.
- (4) If [<sup>F32</sup>the regulator to which an application is made] decides to refuse [<sup>F33</sup>the application], each of the interested parties may refer the matter to the Tribunal.
- (5) “The interested parties”, in relation to an application, are—
  - (a) the applicant;
  - (b) the person in respect of whom the application is made (“A”); and
  - (c) the person by whom A’s services are to be retained, if not the applicant.

#### Textual Amendments

- F31** Words in [s. 62\(1\)](#) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 5 para. 6\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F32** Words in [s. 62\(2\)-\(4\)](#) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 5 para. 6\(3\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F33** Words in [s. 62\(2\)-\(4\)](#) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 5 para. 6\(3\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

#### Modifications etc. (not altering text)

- C16** S. 62 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), [arts. 1\(2\)](#), 34, {[Sch. paras. 1, 3](#)}
- C17** Ss. 60-63 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), [art. 8](#)

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### Commencement Information

- I4** S. 62 wholly in force at 1.12.2001; s. 62 not in force at Royal Assent see s. 431(2); s. 62 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\)](#), [Sch. Pt. 2](#); s. 62 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

## 63 Withdrawal of approval.

<sup>F34</sup>(1) The FCA may withdraw an approval under section 59 given by the FCA or the PRA in relation to the performance by a person of a function if the FCA considers that the person is not a fit and proper person to perform the function.

(1A) The PRA may withdraw an approval under section 59 in relation to the performance by a person (“A”) of a function if—

- (a) the PRA gave the approval, or the FCA gave the approval and the function is a significant-influence function performed in relation to the carrying on by a PRA-authorized person of a regulated activity, and
- (b) the PRA considers that A is not a fit and proper person to perform the function.

(1B) “Significant-influence function” has the same meaning as in section 59.

(1C) Before one regulator withdraws an approval given by the other regulator, it must consult the other regulator.]

(2) When considering whether to withdraw <sup>F35</sup>an approval, the FCA or the PRA may take into account any matter which could be taken into account in] considering an application made under section 60 in respect of the performance of the function to which the approval relates <sup>F36</sup>(on the assumption, if it is not the case, that the application was one falling to be considered by it)].

(3) If <sup>F37</sup>a regulator] proposes to withdraw <sup>F38</sup>an approval] , it must give each of the interested parties a warning notice.

(4) If <sup>F37</sup>a regulator] decides to withdraw <sup>F38</sup>an approval], it must give each of the interested parties a decision notice.

(5) If <sup>F37</sup>a regulator] decides to withdraw <sup>F38</sup>an approval], each of the interested parties may refer the matter to the Tribunal.

(6) “The interested parties”, in relation to an approval, are—

- (a) the person on whose application it was given (“A”);
- (b) the person in respect of whom it was given (“B”); and
- (c) the person by whom B’s services are retained, if not A.

### Textual Amendments

**F34** S. 63(1)-(1C) substituted for s. 63(1) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 14\(3\)](#), [122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

**F35** Words in s. 63(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 7\(2\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

**F36** Words in s. 63(2) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 7\(2\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

**F37** Words in s. 63(3)-(5) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 7\(3\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

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**F38** Words in s. 63(3)-(5) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 7\(3\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)

#### Modifications etc. (not altering text)

- C18** S. 63 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), 34, [Sch. paras. 1, 3](#)
- C19** Ss. 60-63 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), [art. 8](#)
- C20** S. 63 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), [art. 6\(3\)](#)
- C21** S. 63(1)(3)-(6) excluded (1.12.2001) by S.I. 2001/3592, [arts. 1\(2\)](#), 61(2) (with [art. 23\(2\)](#))
- C22** S. 63(3) extended (1.12.2001) by S.I. 2001/3592, [arts. 1\(2\)](#), 52(2) (with [art. 23\(2\)](#))
- C23** S. 63(4) modified (1.12.2001) by S.I. 2001/3592, [arts. 1\(2\)](#), 75(2) (with [art. 23\(2\)](#))

#### Commencement Information

- I5** S. 63 wholly in force at 1.12.2001; s. 63 not in force at Royal Assent see s. 431(2); s. 63 in force for specified purposes at 3.9.2001 by S.I. 2001/2632, [art. 2\(2\)](#), [Sch. Pt. 2](#); s. 63 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, [art. 2\(1\)](#)

### [<sup>F39</sup>63ZD] Statement of policy relating to conditional approval and variation

- (1) Each regulator must prepare and issue a statement of its policy with respect to—
  - (a) its giving of approval under section 59 subject to conditions or for a limited period only, and
  - (b) its variation under section 63ZA or 63ZB of an approval given under section 59.
- (2) A regulator may at any time alter or replace a statement issued by it under this section.
- (3) If a statement issued under this section is altered or replaced by a regulator, the regulator must issue the altered or replacement statement.
- (4) A statement issued under this section must be published by the regulator concerned in the way appearing to the regulator to be best calculated to bring it to the attention of the public.
- (5) A regulator may charge a reasonable fee for providing a person with a copy of a statement published under this section.
- (6) A regulator must, without delay, give the Treasury a copy of any statement which it publishes under this section.

#### Textual Amendments

- F39** Ss. 63ZD, 63ZE inserted (25.7.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 27, 148\(5\)](#); S.I. 2014/1819, [art. 2\(1\)\(b\)](#)

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### **63ZE Statement of policy: procedure**

- (1) Before issuing a statement of policy under section 63ZD, a regulator (“the issuing regulator”) must—
  - (a) consult the other regulator, and
  - (b) publish a draft of the proposed statement in the way appearing to the issuing regulator to be best calculated to bring it to the attention of the public.
- (2) The duty of the FCA to consult the PRA under subsection (1)(a) applies only in so far as the statement of policy applies to persons whose approval under section 59 relates to the performance of a function designated by the FCA as a senior management function under section 59(6A) in relation to the carrying on by PRA-authorized persons of regulated activities.
- (3) The draft must be accompanied by notice that representations about the proposal may be made to the issuing regulator within a specified time.
- (4) Before issuing the proposed statement, the issuing regulator must have regard to any representations made to it in accordance with subsection (3).
- (5) If the issuing regulator issues the proposed statement it must publish an account, in general terms, of—
  - (a) the representations made to it in accordance with subsection (3), and
  - (b) its response to them.
- (6) If the statement differs from the draft published under subsection (1) in a way which is in the opinion of the issuing regulator significant, the issuing regulator—
  - (a) must before issuing it carry out any consultation required by subsection (1)(a), and
  - (b) must (in addition to complying with subsection (5)) publish details of the difference.
- (7) The issuing regulator may charge a reasonable fee for providing a person with a draft published under subsection (1)(b).
- (8) This section also applies to a proposal to alter or replace a statement.]

#### **Textual Amendments**

**F39** Ss. 63ZD, 63ZE inserted (25.7.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 27, 148(5)**; S.I. 2014/1819, art. 2(1)(b)

**Status:**

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