



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 [^{F1}that person is acting in accordance with an approval given by the appropriate regulator under this section.]
- (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 [^{F2}that person is acting in accordance with an approval given by the appropriate regulator under this section.]

[^{F3}(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.

^{F4}(5)

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[^{F5}(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.]

[^{F6}(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.]

^{F7}(7)

^{F7}(7A)

^{F7}(7B)]

[^{F8}(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 [^{F9}or the emission allowance auctioning regulation] to an authority in a country or territory outside the United Kingdom.

^{F10}(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).

^{F11}(11)

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Textual Amendments

- F1** Words in s. 59(1) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 3 para. 1\(2\)](#); 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))
- F2** Words in s. 59(2) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 3 para. 1\(3\)](#); 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))
- 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

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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\(1\)](#)

[^{F12}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\(1\)\(a\)](#)

[^{F13}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 [^{F14}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 [^{F14}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.]
^{F15}(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.

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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.](#)
- 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))

[^{F16}59AB] Specifying functions as controlled functions: transitional provision

- (1) In relation to rules made by the FCA or the PRA under section 59, the power conferred by section 137T(c) to make transitional provision includes in particular power—
- to provide for anything done under this Part in relation to controlled functions of a particular description to be treated as having been done in relation to controlled functions of a different description;
 - to provide for anything done under this Part (including any application or order made, any requirement imposed and any approval or notice given) to cease to have effect, to continue to have effect, or to continue to have effect with modifications, or subject to time limits or conditions;
 - to provide for rules made by the regulator making the rules under section 59 to apply with modifications;
 - to make saving provision.
- (2) The Treasury may by regulations make whatever incidental, consequential, transitional, supplemental or saving provision the Treasury consider appropriate in connection with the making of rules by the FCA or the PRA under section 59.
- (3) Regulations under subsection (2) may—
- confer functions on the FCA or the PRA (including the function of making rules);
 - modify, exclude or apply (with or without modifications) any primary or subordinate legislation (including any provision of, or made under, this Act).]

Textual Amendments

- F16** S. 59AB inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), **ss. 22(2)**, 41(3); S.I. 2016/627, reg. 2(1)(p)

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.

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- (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 [^{F17}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 [^{F17}appropriate regulator] may direct; and
 - (b) contain, or be accompanied by, such information as the [^{F17}appropriate regulator] may reasonably require.

[^{F18}(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”.

(2C) In subsection (2A) “designated senior management function” means a function designated as a senior management function under section 59(6A) or (6B).]

[^{F19}(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 [^{F17}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 [^{F17}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 [^{F20}Part 4A] and will be the authorised person concerned if permission is given.

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[^{F21}(6A) Subsection (6) applies to references to a relevant authorised person as it applies to references to the authorised person concerned.]

[^{F22}(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

- F17** 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.](#)
- F18** 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](#)))
- F19** 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.](#)
- F20** 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.](#)
- F21** 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. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F22** 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](#)

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- 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)**

[^{F23}60A Vetting of candidates by relevant authorised persons

- (1) Before a relevant authorised person may make an application for a regulator's approval under section 59, the authorised person must be 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, the authorised person must have regard, in particular, to whether the candidate, or any person who may perform a function on the candidate's behalf—
- has obtained a qualification,
 - has undergone, or is undergoing, training,
 - possesses a level of competence, or
 - has the personal characteristics,
- required by general rules made by the regulator in relation to persons performing functions of the kind to which the application relates.
- (3) For the meaning of “relevant authorised person”, see section 71A.]

Textual Amendments

- F23** S. 60A inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 21**, 148(5); [S.I. 2015/490](#), **art. 2(1)(c)** (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))

61 Determination of applications.

- [^{F24}(1) The regulator to which an application for approval 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, or
 - in a case where the application is for approval to perform a designated senior management function in relation to the carrying on of a regulated activity by a relevant authorised person (a “relevant senior management application”), it

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is satisfied that the condition in paragraph (a) will be met if the application is granted subject to one or more conditions (as to which, see subsection (2B)).]

(2) In [^{F25}determining the application], [^{F26}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, ^{F27}...
- (c) possesses a level of competence, [^{F28}or
- (d) has the personal characteristics,]

required by general rules [^{F29}made by that regulator] in relation to persons performing functions of the kind to which the application relates.

[^{F30}(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.]

[^{F31}(2B) The regulator to which a relevant senior management application is made under section 60 may in particular—

- (a) grant the application subject to any conditions that the regulator considers appropriate, and
- (b) grant the application so as to give approval only for a limited period.

(2C) A regulator may exercise the power under paragraph (a) or (b) of subsection (2B) only if—

- (a) where the regulator is the FCA, it appears to the FCA that it is desirable to do so in order to advance one or more of its operational objectives, and
- (b) where the regulator is the PRA, it appears to the PRA that it is desirable to do so in order to advance any of its objectives.

(2D) Consent given by the FCA for the granting of the application may be conditional on the manner in which the PRA exercises its power under subsection (2B).]

(3) [^{F32}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).

[^{F33}(3ZA) In the case of a relevant senior management application, the reference in subsection (3) (a) to granting the application is a reference to granting it without imposing conditions or limiting the period for which the approval has effect.]

[^{F34}(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.]

Status: Point in time view as at 03/01/2018.

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 14 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)

- (4) If [^{F35}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 [^{F35}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 [^{F35}a regulator].
- (5) A person who makes an application under section 60 may withdraw his application by giving written notice to the [^{F36}regulator to which the application was made] at any time before the [^{F37}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.
- [^{F38}(6) In this section—
- (a) “designated senior management function” means a function designated as a senior management function under section 59(6A) or (6B);
 - (b) any reference to a relevant authorised person includes a reference to a person who has applied for permission under Part 4A and will be a relevant authorised person if permission is given.
- (7) For the meaning of “relevant authorised person”, see section 71A.]

Textual Amendments

- F24** S. 61(1) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 23\(2\), 148\(5\); S.I. 2015/490, art. 2\(1\)\(c\)](#) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F25** Words in s. 61(2) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 23\(3\), 148\(5\); S.I. 2015/490, art. 2\(1\)\(c\)](#) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F26** 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.
- F27** Word in s. 61(2)(b) omitted (7.3.2016) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 22\(a\), 148\(5\); S.I. 2015/490, art. 2\(1\)\(c\)](#) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F28** S. 61(2)(d) and word inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 22\(b\), 148\(5\); S.I. 2015/490, art. 2\(1\)\(c\)](#) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F29** 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.
- F30** 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.
- F31** S. 61(2B)-(2D) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 23\(4\), 148\(5\); S.I. 2015/490, art. 2\(1\)\(c\)](#) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F32** 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.
- F33** S. 61(3ZA) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 23\(5\), 148\(5\); S.I. 2015/490, art. 2\(1\)\(c\)](#) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))

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- F34** 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.
- F35** 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.
- F36** 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.
- F37** 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.
- F38** S. 61(6)(7) inserted (7.3.2016) by Financial Services (Banking Reform) Act 2013 (c. 33), **ss. 23(6), 148(5)**; S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))

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}
- 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)**
- C16** S. 61(3) excluded (1.4.2017 for specified purposes) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017 (S.I. 2017/488), arts. 1(2), **15(2)** (with art. 16)
- C17** S. 61(3) excluded (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017 (S.I. 2017/488), arts. 1(2), **15(2)** (with art. 16)

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) [^{F39}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 [^{F40}the regulator to which an application is made] proposes to refuse [^{F41}the application][^{F42}, or to grant the application subject to conditions or for a limited period (or both)], it must give a warning notice to each of the interested parties.
- (3) If [^{F40}the regulator to which an application is made] decides to refuse [^{F41}the application][^{F43}, or to grant the application subject to conditions or for a limited period (or both)], it must give a decision notice to each of the interested parties.
- (4) If [^{F40}the regulator to which an application is made] decides to refuse [^{F41}the application][^{F44}, or to grant the application subject to conditions or for a limited period (or both)], each of the interested parties may refer the matter to the Tribunal.

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- (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

- F39** 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.](#)
- F40** 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.](#)
- F41** 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.](#)
- F42** Words in s. 62(2) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 23\(7\)\(a\)](#), 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F43** Words in s. 62(3) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 23\(7\)\(b\)](#), 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F44** Words in s. 62(4) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 23\(7\)\(c\)](#), 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))

Modifications etc. (not altering text)

- C18** 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](#)}
- 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](#)

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\(1\)](#)

[^{F45}62A Changes in responsibilities of senior managers

- (1) This section applies where—
- (a) an authorised person has made an application to the appropriate regulator for approval under section 59 for a person to perform a designated senior management function,
 - (b) the application contained, or was accompanied by, a statement of responsibilities under section 60(2A), and
 - (c) the application has been granted.
- (2) If, since the granting of the application, there has been any significant change in the aspects of the authorised person's affairs which the person is responsible for managing in performing the function, the authorised person must provide the appropriate regulator with a revised statement of responsibilities.

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- (3) The appropriate regulator may require the authorised person—
- (a) to provide information which the person is required to give under this section in such form as the appropriate regulator may direct, or
 - (b) to verify such information in such a way as the appropriate regulator may direct.

- (4) In this section—

“the appropriate regulator” has the same meaning as in section 60 [^{F46}, except that the reference in section 60(9)(b) to subsection (3) is to be treated as a reference to subsection (2) of this section];

“designated senior management function” means a function designated as a senior management function under section 59(6A) or (6B).]

Textual Amendments

F45 S. 62A inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 24, 148\(5\); S.I. 2015/490, art. 2\(1\)\(c\)](#) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))

F46 Words in s. 62A(4) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\), ss. 23\(2\), 41\(3\); S.I. 2016/627, reg. 2\(1\)\(q\)](#)

63 Withdrawal of approval.

[^{F47}(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 [^{F48}relevant senior management function] performed in relation to the carrying on by a PRA-authorised person of a regulated activity, and
- (b) the PRA considers that A is not a fit and proper person to perform the function.

[^{F49}(1B) In subsection (1A) “relevant senior management function” means a function which the PRA is satisfied is a senior management function as defined in section 59ZA (whether or not the function has been designated as such by the FCA).]

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

(2) When considering whether to withdraw [^{F50}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 [^{F51}(on the assumption, if it is not the case, that the application was one falling to be considered by it)].

[^{F52}(2A) At least once a year each relevant authorised person must, in relation to every person in relation to whom an approval has been given on the application of the authorised person—

- (a) consider whether there are any grounds on which a regulator could withdraw the approval under this section, and

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- (b) if the authorised person is of the opinion that there are such grounds, notify the regulator of those grounds.
(For the meaning of “relevant authorised person”, see section 71A.)]
- (3) If [^{F53}a regulator] proposes to withdraw [^{F54}an approval], it must give each of the interested parties a warning notice.
- (4) If [^{F53}a regulator] decides to withdraw [^{F54}an approval], it must give each of the interested parties a decision notice.
- (5) If [^{F53}a regulator] decides to withdraw [^{F54}an approval], each of the interested parties may refer the matter to the Tribunal.
- (6) “The interested parties”, in relation to an approval, are—
- the person on whose application it was given (“A”);
 - the person in respect of whom it was given (“B”); and
 - the person by whom B’s services are retained, if not A.

Textual Amendments

- F47** 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.
- F48** Words in s. 63(1A)(a) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), **Sch. 3 para. 3(2)**; 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))
- F49** S. 63(1B) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), **Sch. 3 para. 3(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))
- F50** 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.
- F51** 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.
- F52** S. 63(2A) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 25**, 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F53** 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.
- F54** 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)

- C20** 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**
- C21** 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**
- C22** 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)**
- C23** S. 63(1)(3)-(6) excluded (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 61(2) (with art. 23(2))
- C24** S. 63(3) extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 52(2) (with art. 23(2))
- C25** S. 63(4) modified (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 75(2) (with art. 23(2))

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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\(1\)](#)

[^{F55}63ZAVariation of senior manager's approval at request of relevant authorised person

- (1) Where an [^{F56}approval under section 59 has effect] subject to conditions, the authorised person concerned may apply to the appropriate regulator to vary the approval by—
- varying a condition,
 - removing a condition, or
 - imposing a new condition.

[Where an approval under section 59 has effect for a limited period, the authorised
^{F57}(1A) person concerned may apply to the appropriate regulator to vary the approval by—

- varying the period for which the approval is to have effect, or
- removing the limit on the period for which the approval is to have effect.]

(2) “The appropriate regulator”—

- in the case of an application for variation of an approval in a way described in subsection (1)(a) or (b), means
 - [whichever of the FCA or the PRA imposed the condition concerned
^{F58}(i) [^{F59}, or
 - (ii) if the condition has been varied before (under this section or section 63ZB), whichever of the FCA or the PRA last varied it];
- in the case of an application for variation of an approval in the way described in subsection (1)(c), means the regulator who gave the approval.

[
^{F60}(c) in the case of an application for variation of an approval in a way described in subsection (1A), means—

- whichever of the FCA or the PRA imposed the limit on the period for which the approval has effect, or
- if the limit has been varied before (under this section or section 63ZB), whichever of the FCA or the PRA last varied it.]

(3) The PRA must consult the FCA before determining an application under this section, unless the application relates to the variation or removal of a condition [^{F61}, or a limit on the period for which an approval has effect, which was imposed (or last varied)] by the PRA in exercise of its power under section 63ZB.

(4) The regulator to which an application is made under this section must, before the end of the period for consideration, determine whether—

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

(5) “The period for consideration” means the period of 3 months beginning with the date on which the regulator receives the application.

(6) The FCA may refuse an application under this section if it appears to the FCA that it is desirable to do so in order to advance one or more of its operational objectives.

(7) The PRA may refuse an application under this section if it appears to the PRA that it is desirable to do so in order to advance any of its objectives.

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[An application may not be made under this section for the variation or removal of a ^{F62}(7A) condition, or a limit on the period for which an approval has effect, where the condition or limit has effect by virtue of section 66.]

- (8) The following provisions apply to an application made under this section for variation of an approval as they apply to an application for approval made under section 60— section 60(2) to (8), section 61(4) and (5), section 62 [^{F63}, but as if in subsections (2), (3) and (4) the words “, or to grant the application subject to conditions or for a limited period (or both)” were omitted].

Textual Amendments

- F55** Ss. 63ZA–63ZC inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 26, 148\(5\)](#); [S.I. 2015/490](#), [art. 2\(1\)\(c\)](#) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F56** Words in s. 63ZA(1) substituted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 23\(3\)\(a\)](#), [41\(3\)](#); [S.I. 2016/627](#), [reg. 2\(1\)\(q\)](#)
- F57** S. 63ZA(1A) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 23\(3\)\(b\)](#), [41\(3\)](#); [S.I. 2016/627](#), [reg. 2\(1\)\(q\)](#)
- F58** Words in s. 63ZA(2)(a) renumbered as s. 63ZA(2)(a)(i) (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 23\(3\)\(c\)](#), [41\(3\)](#); [S.I. 2016/627](#), [reg. 2\(1\)\(q\)](#)
- F59** S. 63ZA(2)(a)(ii) and word inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 23\(3\)\(c\)](#), [41\(3\)](#); [S.I. 2016/627](#), [reg. 2\(1\)\(q\)](#)
- F60** S. 63ZA(2)(c) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 23\(3\)\(d\)](#), [41\(3\)](#); [S.I. 2016/627](#), [reg. 2\(1\)\(q\)](#)
- F61** Words in s. 63ZA(3) substituted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 23\(3\)\(e\)](#), [41\(3\)](#); [S.I. 2016/627](#), [reg. 2\(1\)\(q\)](#)
- F62** S. 63ZA(7A) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 23\(3\)\(f\)](#), [41\(3\)](#); [S.I. 2016/627](#), [reg. 2\(1\)\(q\)](#)
- F63** Words in s. 63ZA(8) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), [ss. 23\(3\)\(g\)](#), [41\(3\)](#); [S.I. 2016/627](#), [reg. 2\(1\)\(q\)](#)

63ZB Variation of senior manager's approval on initiative of regulator

- (1) The FCA may vary an approval under section 59 given by the FCA or the PRA for the performance of a designated senior management function in relation to the carrying on of a regulated activity by a relevant authorised person if the FCA considers that it is desirable to do so in order to advance one or more of its operational objectives.
- (2) The PRA may vary an approval under section 59 for the performance of a designated senior management function in relation to the carrying on of a regulated activity by a relevant authorised person if—
- (a) either—
 - (i) the PRA gave the approval, or
 - (ii) the FCA gave the approval and the relevant authorised person is a PRA-authorised person, and
 - (b) the PRA considers that it is desirable to do so in order to advance any of its objectives.
- (3) A regulator may vary an approval by—

Status: Point in time view as at 03/01/2018.

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- (a) imposing a condition,
- (b) varying a condition,
- (c) removing a condition, ^{F64} ...
- (d) [^{F65}where the approval has effect for an unlimited period,] limiting the period for which the approval is to have effect [^{F66}, or
- (e) where the approval has effect for a limited period, varying that period or removing the limit on the period for which the approval is to have effect].

- (4) Before one regulator varies an approval given by the other regulator, it must consult the other regulator.

[Before one regulator varies an approval which was last varied by the other regulator, ^{F67}(4A) it must consult the other regulator.]

- (5) In this section “designated senior management function” means a function designated as a senior management function under section 59(6A) or (6B).

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

Textual Amendments

- F55** Ss. 63ZA-63ZC inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 26**, 148(5); S.I. 2015/490, **art. 2(1)(c)** (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F64** Word in s. 63ZB(3)(c) omitted (6.7.2016) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), **ss. 23(4)(a)**, 41(3); S.I. 2016/627, **reg. 2(1)(q)**
- F65** Words in s. 63ZB(3)(d) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), **ss. 23(4)(b)**, 41(3); S.I. 2016/627, **reg. 2(1)(q)**
- F66** S. 63ZB(3)(e) and word inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), **ss. 23(4)(c)**, 41(3); S.I. 2016/627, **reg. 2(1)(q)**
- F67** S. 63ZB(4A) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), **ss. 23(4)(d)**, 41(3); S.I. 2016/627, **reg. 2(1)(q)**

63ZC Exercise of power under section 63ZB: procedure

- (1) This section applies to an exercise, by either regulator, of the power to vary an approval under section 63ZB.
- (2) A variation takes effect—
 - (a) immediately, if the notice given under subsection (4) states that that is the case,
 - (b) on such date as is specified in the notice, or
 - (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.
- (3) A variation may be expressed to take effect immediately (or on a specified date) only if the regulator concerned, having regard to the ground on which it is exercising the power to vary, reasonably considers that it is necessary for the variation to take effect immediately (or on that date).
- (4) If either regulator proposes to vary an approval or varies an approval with immediate effect, it must give each of the interested parties written notice.
- (5) The notice must—

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- (a) give details of the variation,
 - (b) state the regulator's reasons for the variation,
 - (c) inform the interested parties that each of them may make representations to the regulator within such period as may be specified in the notice (whether or not any of the interested parties has referred the matter to the Tribunal),
 - (d) inform the interested parties of when the variation takes effect, and
 - (e) inform the interested parties of the right of each of them to 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.
- (7) The regulator giving the notice may extend the period allowed under the notice for making representations.
- (8) If having considered the representations made by the interested parties, the regulator decides—
- (a) to vary the approval, or
 - (b) if the variation has taken effect, not to rescind it,
- it must give each of the interested parties written notice.
- (9) If having considered the representations made by the interested parties, the regulator decides—
- (a) not to vary the approval,
 - (b) to vary the approval in a different way, or
 - (c) if the variation has taken effect, to rescind it,
- it must give each of the interested parties written notice.
- (10) A notice under subsection (8) must inform the interested parties of the right of each of them to refer the matter to the Tribunal.
- (11) A notice under subsection (9)(b) must comply with subsection (5).
- (12) If a notice informs the interested parties of the right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.
- (13) For the purposes of subsection (2)(c), whether a matter is open to review is to be determined in accordance with section 391(8).
- (14) “Approval” means an approval under section 59.]

Textual Amendments

F55 Ss. 63ZA-63ZC inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), ss. 26, 148(5); [S.I. 2015/490](#), art. 2(1)(c) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))

[^{F68} 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—

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- (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

F68 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)**

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-authorised 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

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- (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

F68 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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Changes to legislation:

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