



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART V

#### PERFORMANCE OF REGULATED ACTIVITIES

##### *f<sup>1</sup>* Conduct of approved persons and others

#### Textual Amendments

- F1** Ss. 64A, 64B and cross-heading inserted (25.7.2014 for specified purposes, 7.3.2016 for specified purposes) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 30\(3\), 148\(5\)](#); [S.I. 2014/1819, art. 2\(2\)\(c\)](#); [S.I. 2015/490, art. 2\(1\)\(d\)](#) (as inserted by [S.I. 2015/2055, art. 2\(4\)](#) and with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))

#### 64A Rules of conduct

- (1) If it appears to the FCA to be necessary or expedient for the purpose of advancing one or more of its operational objectives, the FCA may make rules about the conduct of the following persons—
  - (a) persons in relation to whom either regulator has given its approval under section 59;
  - (b) persons who are employees of relevant authorised persons (see section 71A).
- (2) If it appears to the PRA to be necessary or expedient for the purpose of advancing any of its objectives, the PRA may make rules about the conduct of the following persons—
  - (a) persons in relation to whom it has given its approval under section 59;
  - (b) persons in relation to whom the FCA has given its approval under section 59 in respect of the performance by them of a relevant senior management function in relation to the carrying on by a PRA-authorised person of a regulated activity;
  - (c) persons who are employees of relevant PRA-authorised persons.

*Status: Point in time view as at 01/04/2015.*

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- (3) In subsection (2)—
- “relevant PRA-authorised person” means a PRA-authorised person that is a relevant authorised person (see section 71A), and
- “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).
- (4) Rules made under this section must relate to the conduct of persons in relation to the performance by them of qualifying functions.
- (5) In subsection (4) “qualifying function”, in relation to a person, means a function relating to the carrying on of activities (whether or not regulated activities) by—
- (a) in the case of an approved person, the person on whose application approval was given, and
  - (b) in any other case, the person's employer.
- (6) In this section any reference to an employee of a person (“P”) includes a reference to a person who—
- (a) personally provides, or is under an obligation personally to provide, services to P under an arrangement made between P and the person providing the services or another person, and
  - (b) is subject to (or to the right of) supervision, direction or control by P as to the manner in which those services are provided,
- and “employer” is to be read accordingly.

#### **64B Rules of conduct: responsibilities of relevant authorised persons**

- (1) This section applies where a regulator makes rules under section 64A (“conduct rules”).
- (2) Every relevant authorised person must—
- (a) notify all relevant persons of the conduct rules that apply in relation to them, and
  - (b) take all reasonable steps to secure that those persons understand how those rules apply in relation to them.
- (3) The steps which a relevant authorised person must take to comply with subsection (2) (b) include, in particular, the provision of suitable training.
- (4) In this section “relevant person”, in relation to an authorised person, means—
- (a) any person in relation to whom an approval is given under section 59 on the application of the authorised person, and
  - (b) any employee of the authorised person.
- (5) If a relevant authorised person knows or suspects that a relevant person has failed to comply with any conduct rules, the authorised person must notify the regulator of that fact.
- (6) In this section “employee”, in relation to an authorised person, has the same meaning as in section 64A.
- (7) For the meaning of “relevant authorised person”, see section 71A.]

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## **[<sup>F2</sup>64C Requirement for relevant authorised persons to notify regulator of disciplinary action**

- (1) If—
  - (a) a relevant authorised person takes disciplinary action in relation to a relevant person, and
  - (b) the reason, or one of the reasons, for taking that action is a reason specified in rules made by the appropriate regulator for the purposes of this section, the relevant authorised person must notify that regulator of that fact.
- (2) “Disciplinary action”, in relation to a person, means any of the following—
  - (a) the issuing of a formal written warning;
  - (b) the suspension or dismissal of the person;
  - (c) the reduction or recovery of any of the person's remuneration.
- (3) “The appropriate regulator” means—
  - (a) in relation to relevant authorised persons that are PRA-*authorised persons*, the FCA or the PRA;
  - (b) in relation to any other relevant authorised persons, the FCA.
- (4) “Relevant person” has the same meaning as in section 64B.
- (5) For the meaning of “relevant authorised person”, see section 71A.]

### **Textual Amendments**

- F2** S. 64C 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. 31, 148\(5\)](#); [S.I. 2014/1819, art. 2\(2\)\(d\)](#); [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](#)))

## **66 Disciplinary powers.**

- (1) [<sup>F3</sup>A regulator] may take action against a person under this section [<sup>F4</sup>(whether or not it has given its approval in relation to the person)] if—
  - (a) it appears to the [<sup>F5</sup>regulator] that he is guilty of misconduct; and
  - (b) the [<sup>F6</sup>regulator] is satisfied that it is appropriate in all the circumstances to take action against him.
- [<sup>F7</sup>(2) For the purposes of action by the FCA, a person is guilty of misconduct if, while an approved person—
  - (a) the person has failed to comply with a statement of principle issued by the FCA under section 64, or
  - (b) the person has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person—
    - (i) by or under this Act, <sup>F8</sup>...
    - [<sup>F9</sup>(ia) by the Alternative Investment Fund Managers Regulations 2013, or]
    - (ii) by any qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order.

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- (2A) For the purposes of action by the PRA, a person is guilty of misconduct if, while an approved person in respect of the performance of a significant-influence function in relation to the carrying on by a PRA-authorized person of a regulated activity—
- (a) the person has failed to comply with a statement of principle issued by the PRA under section 64, or
  - (b) the person has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person—
    - (i) by or under this Act, or
    - (ii) by any qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order.]
- (3) If the <sup>F10</sup>regulator] is entitled to take action under this section against a person, <sup>F11</sup>it may do one or more of the following—
- (a) impose a penalty on him of such amount as it considers appropriate;
  - <sup>F12</sup>(aa) suspend, for such period as it considers appropriate, any approval of the performance by him of any function to which the approval relates;
  - (ab) impose, for such period as it considers appropriate, such limitations or other restrictions in relation to the performance by him of any function to which any approval relates as it considers appropriate;] or
  - (b) publish a statement of his misconduct.
- <sup>F13</sup>(3A) The period for which a suspension or restriction is to have effect may not exceed two years.
- (3B) A suspension or restriction may have effect in relation to part of a function.
- (3C) A restriction may, in particular, be imposed so as to require any person to take, or refrain from taking, specified action.
- (3D) <sup>F14</sup>The regulator taking action under this section] may—
- (a) withdraw a suspension or restriction; or
  - (b) vary a suspension or restriction so as to reduce the period for which it has effect or otherwise to limit its effect.]
- (4) <sup>F15</sup>A regulator] may not take action under this section after the end of the <sup>F16</sup>relevant period] beginning with the first day on which <sup>F17</sup>the regulator] knew of the misconduct, unless proceedings in respect of it against the person concerned were begun before the end of that period.
- (5) For the purposes of subsection (4)—
- (a) <sup>F18</sup>a regulator] is to be treated as knowing of misconduct if it has information from which the misconduct can reasonably be inferred; and
  - (b) proceedings against a person in respect of misconduct are to be treated as begun when a warning notice is given to him under section 67(1).
- <sup>F19</sup>(5ZA) “The relevant period” is—
- (a) in relation to misconduct which occurs before the day on which this subsection comes into force, the period of 3 years, and
  - (b) in relation to misconduct which occurs on or after that day, the period of 6 years.]
- <sup>F20</sup>(5A) “Approval” means an approval given under section 59.]

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[<sup>F21</sup>(6) “Approved person” means a person in relation to whom an approval is given under that section.]

(7) “Relevant authorised person”, in relation to an approved person, means the person on whose application approval <sup>F22</sup> . . . was given.

[<sup>F23</sup>(8) In relation to any time while a suspension is in force under subsection (3)(aa) in relation to part of a function, any reference in section 59 or 63A to the performance of a function includes the performance of part of a function.

(9) If at any time a restriction imposed under subsection (3)(ab) is contravened, the approval in relation to the person concerned is to be treated for the purposes of sections 59 and 63A as if it had been withdrawn at that time.]

### Textual Amendments

- F3** Words in s. 66(1) 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. 14\(2\)\(a\)\(i\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F4** Words in s. 66(1) 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. 14\(2\)\(a\)\(ii\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F5** Word in s. 66(1)(a) 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. 14\(2\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F6** Word in s. 66(1)(b) 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. 14\(2\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F7** S. 66(2)(2A) substituted for s. 66(2) (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. 14\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F8** Word in s. 66(2)(b) omitted (22.7.2013) by virtue of [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, [Sch. 1 para. 8](#)
- F9** S. 66(2)(b)(ia) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, [Sch. 1 para. 8](#)
- F10** Word in s. 66(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. 14\(4\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F11** Words in s. 66(3) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(2\)\(a\)](#), 26(2)(b)
- F12** S. 66(3)(aa)(ab) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(2\)\(b\)](#), 26(2)(b)
- F13** S. 66(3A)-(3D) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(3\)](#), 26(2)(b)
- F14** Words in s. 66(3D) 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. 14\(5\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F15** Words in s. 66(4) 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. 14\(6\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F16** Words in s. 66(4) substituted (25.7.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 28\(5\)](#), 148(5); S.I. 2014/1819, art. 2(1)(c)
- F17** Words in s. 66(4) 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. 14\(6\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)

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- F18** Words in s. 66(5)(a) 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. 14(7)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2; S.I. 2013/423, art. 3, Sch.
- F19** S. 66(5ZA) inserted (25.7.2014) by Financial Services (Banking Reform) Act 2013 (c. 33), **ss. 28(6), 148(5)**; S.I. 2014/1819, art. 2(1)(c)
- F20** S. 66(5A) inserted (8.6.2010) by Financial Services Act 2010 (c. 28), **ss. 24(1), 26(2)(d)(e), Sch. 2 para. 8(2)**
- F21** S. 66(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. 14(8)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2; S.I. 2013/423, art. 3, Sch.
- F22** Words in s. 66(7) omitted (8.6.2010) by virtue of by Financial Services Act 2010 (c. 28), **ss. 24(1), 26(2)(d)(e), Sch. 2 para. 8(3)**
- F23** S. 66(8)(9) inserted (8.6.2010) by Financial Services Act 2010 (c. 28), **ss. 24(1), 26(2)(d)(e), Sch. 2 para. 8(4)**

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

- C1** S. 66 modified (1.12.2001) by S.I. 2001/2657, **arts. 1(1), 9** (which was revoked (8.10.2001) by S.I. 2001/3083, **arts. 1(2), 23**); S.I. 2001/3538, **art. 2(1)**  
S. 66 modified (1.12.2001) by S.I. 2001/3083, **arts. 1(2), 9**; S.I. 2001/3538, **art. 2(1)**
- C2** Ss. 66-70 applied (with modifications) (1.11.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), **regs. 1(2)(c), 95, Sch. 5 para. 1** (with reg. 3) (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 155(6)(a)** (with Sch. 2 para. 156))
- C3** Ss. 66-70 applied (with modifications) (11.2.2010) by The Cross-Border Payments in Euro Regulations 2010 (S.I. 2010/89), **reg. 19, Sch. para. 1**
- C4** Ss. 66-70 applied (with modifications) (30.4.2011) by The Electronic Money Regulations 2011 (S.I. 2011/99), **regs. 1(2)(b), 62, Sch. 3 para. 1** (with art. 3) (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 196(5)(a)**)
- C5** Ss. 66-70 applied (with modifications) (15.1.2013) by The Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 (S.I. 2012/3122), **reg. 1, Sch. para. 1** (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 248(6)(a)**)
- C6** S. 66 applied (with modifications) (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services Act 2012 (Consumer Credit) Order 2013 (S.I. 2013/1882), **arts. 1(1), 3(3)**
- C7** S. 66(3)(a) restricted (1.12.2001) by S.I. 2001/3592, **arts. 1(2), 60(2)** (with art. 23(2))

## **67 Disciplinary measures: procedure and right to refer to Tribunal.**

- (1) If [<sup>F24</sup>a regulator] proposes to take action against a person under section 66, it must give him a warning notice<sup>F25</sup>; and if it proposes to take action under subsection (3)(aa) or (ab) of that section, it must also give each of the other interested parties a warning notice.]
- (2) A warning notice about a proposal to impose a penalty must state the amount of the penalty.

[<sup>F26</sup>(2A) A warning notice about a proposal—

- (a) to suspend an approval, or
- (b) to impose a restriction in relation to the performance of a function,
- must state the period for which the suspension or restriction is to have effect.]

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- (3) A warning notice about a proposal to publish a statement must set out the terms of the statement.
- (4) If [<sup>F27</sup>a regulator] decides to take action against a person under section 66, it must give him a decision notice<sup>[F28]</sup>, and if it decides to take action under subsection (3)(aa) or (ab) of that section, it must also give each of the other interested parties a decision notice.]
- (5) A decision notice about the imposition of a penalty must state the amount of the penalty.
- [<sup>F29</sup>(5A) A decision notice about—
- (a) the suspension of an approval, or
  - (b) the imposition of a restriction in relation to the performance of a function,
- must state the period for which the suspension or restriction is to have effect.]
- (6) A decision notice about the publication of a statement must set out the terms of the statement.
- (7) If [<sup>F30</sup>a regulator] decides to take action against a person under section 66, he may refer the matter to the Tribunal<sup>[F31]</sup>; and if [<sup>F32</sup>the regulator] decides to take action under section 66(3)(aa) or (ab), each of the other interested parties may also refer the matter to the Tribunal.]
- [<sup>F33</sup>(8) Approval” means an approval given under section 59.
- (9) “Other interested parties”, in relation to [<sup>F34</sup>a person (“A”) in relation to whom approval has been given,] are—
- (a) the person on whose application the approval was given (“B”); and
  - (b) the person by whom A's services are retained, if not B.
- <sup>F35</sup> ...]

#### Textual Amendments

- F24** Words in s. 67(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 15\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F25** Words in s. 67(1) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(2\)](#)
- F26** S. 67(2A) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(3\)](#)
- F27** Words in s. 67(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 15\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F28** Words in s. 67(4) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(4\)](#)
- F29** S. 67(5A) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(5\)](#)
- F30** Words in s. 67(7) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 15\(3\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F31** Words in s. 67(7) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(6\)](#)
- F32** Words in s. 67(7) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 15\(3\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

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- F33** S. 67(8)(9) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), **Sch. 2 para. 9(7)**
- F34** Words in s. 67(9) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 15(4)(a)** (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F35** Words in s. 67(9) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 15(4)(b)** (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

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

- C5** Ss. 66-70 applied (with modifications) (15.1.2013) by [The Payments in Euro \(Credit Transfers and Direct Debits\) Regulations 2012 \(S.I. 2012/3122\)](#), reg. 1, Sch. para. 1 (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), Sch. 2 para. 248(6)(a))
- C8** S. 67 excluded (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 61(3), 85(5) (with art. 23(2))
- C9** Ss. 66-70 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2)(c), 95, **Sch. 5 para. 1** (with reg. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), Sch. 2 para. 155(6)(a) (with **Sch. 2 para. 156**))
- C10** Ss. 66-70 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\)](#), reg. 19, **Sch. para. 1**
- C11** Ss. 66-70 applied (with modifications) (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(b), 62, **Sch. 3 para. 1** (with art. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(a)**)
- C12** S. 67 applied (with modifications) (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services Act 2012 \(Consumer Credit\) Order 2013 \(S.I. 2013/1882\)](#), arts. 1(1), **3(3)**
- C13** S. 67(4) modified (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 73(2), 74(2) (with art. 23(2))

## 68 Publication.

After a statement under section 66 is published, [<sup>F36</sup>the regulator publishing it] must send a copy of it to the person concerned and to any person to whom a copy of the decision notice was given.

#### Textual Amendments

- F36** Words in s. 68 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 16** (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

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

- C5** Ss. 66-70 applied (with modifications) (15.1.2013) by [The Payments in Euro \(Credit Transfers and Direct Debits\) Regulations 2012 \(S.I. 2012/3122\)](#), reg. 1, Sch. para. 1 (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), Sch. 2 para. 248(6)(a))
- C14** Ss. 66-70 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2)(c), 95, **Sch. 5 para. 1** (with reg. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), Sch. 2 para. 155(6)(a) (with **Sch. 2 para. 156**))
- C15** Ss. 66-70 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\)](#), reg. 19, **Sch. para. 1**
- C16** Ss. 66-70 applied (with modifications) (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(b), 62, **Sch. 3 para. 1** (with art. 3) (as amended (1.4.2013) by [The Financial](#)



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Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 196(5)(a)**

- C17** S. 68 applied (with modifications) (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by **The Financial Services Act 2012 (Consumer Credit) Order 2013 (S.I. 2013/1882)**, arts. 1(1), **3(3)**

## 69 Statement of policy.

- (1) [<sup>F37</sup>Each regulator must] prepare and issue a statement of its policy with respect to—
  - [<sup>F38</sup>(a) the imposition of penalties, suspensions[<sup>F39</sup>, conditions or limitations] under section 66;
  - (b) the amount of penalties under that section; <sup>F40</sup>...
  - (c) the period for which suspensions or [<sup>F41</sup>conditions] under that section are to have effect.][<sup>F42</sup>; and
  - (d) the period for which approvals under section 59 are to have effect as a result of a limitation under section 66.]
- (2) [<sup>F43</sup>A regulator's] policy in determining what the amount of a penalty should be [<sup>F44</sup>, or what the period for which a suspension or restriction is to have effect should be,] must include having regard to—
  - (a) the seriousness of the misconduct in question in relation to the nature of the principle or requirement concerned;
  - (b) the extent to which that misconduct was deliberate or reckless; and
  - (c) whether [<sup>F45</sup>the person against whom action is to be taken] is an individual.
- (3) [<sup>F46</sup>A regulator] may at any time alter or replace a statement issued [<sup>F47</sup>by it] under this section.
- (4) If a statement issued under this section is altered or [<sup>F48</sup>replaced by a regulator, the regulator] must issue the altered or replacement statement.
- (5) [<sup>F49</sup>A regulator] must, without delay, give the Treasury a copy of any statement which it publishes under this section.
- (6) A statement issued under this section [<sup>F50</sup>by a regulator] must be published by [<sup>F51</sup>the regulator] in the way appearing to [<sup>F51</sup>the regulator] to be best calculated to bring it to the attention of the public.
- (7) The [<sup>F52</sup>regulator] may charge a reasonable fee for providing a person with a copy of the statement.
- (8) In exercising, or deciding whether to exercise, its power under section 66 in the case of any particular misconduct, [<sup>F53</sup>a regulator] must have regard to any statement of policy published [<sup>F54</sup>by it] under this section and in force at the time when the misconduct in question occurred.

### Textual Amendments

- F37** Words in s. 69(1) 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. 17(2)** (with **Sch. 20**); **S.I. 2013/113**, art. 2(1)(c), **Sch. Pt. 3**; **S.I. 2013/423**, art. 3, **Sch.**
- F38** S. 69(1)(a)-(c) substituted (8.6.2010) for s. 69(1)(a)(b) by **Financial Services Act 2010 (c. 28)**, ss. 24(1), 26(2)(d)(e), **Sch. 2 para. 10(2)**

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- F39** Words in s. 69(1)(a) substituted (25.7.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), s. 148\(5\), Sch. 3 para. 7\(a\)](#); S.I. 2014/1819, art. 2(4)(b)
- F40** Word in s. 69(1)(b) omitted (25.7.2014) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), s. 148\(5\), Sch. 3 para. 7\(b\)](#); S.I. 2014/1819, art. 2(4)(b)
- F41** Word in s. 69(1)(c) substituted (25.7.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), s. 148\(5\), Sch. 3 para. 7\(c\)](#); S.I. 2014/1819, art. 2(4)(b)
- F42** S. 69(1)(d) and word inserted (25.7.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), s. 148\(5\), Sch. 3 para. 7\(d\)](#); S.I. 2014/1819, art. 2(4)(b)
- F43** Words in s. 69(2) 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. 17\(3\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F44** Words in s. 69(2) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\), ss. 24\(1\), 26\(2\)\(d\)\(e\), Sch. 2 para. 10\(3\)\(a\)](#)
- F45** Words in s. 69(2)(c) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\), ss. 24\(1\), 26\(2\)\(d\)\(e\), Sch. 2 para. 10\(3\)\(b\)](#)
- F46** Words in s. 69(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. 17\(4\)\(a\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F47** Words in s. 69(3) 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. 17\(4\)\(b\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F48** Words in s. 69(4) 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. 17\(5\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F49** Words in s. 69(5) 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. 17\(6\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F50** Words in s. 69(6) 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. 17\(7\)\(a\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F51** Words in s. 69(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. 17\(7\)\(b\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F52** Word in s. 69(7) 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. 17\(8\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F53** Words in s. 69(8) 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. 17\(9\)\(a\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F54** Words in s. 69(8) 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. 17\(9\)\(b\)](#) (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)**

- C5** Ss. 66-70 applied (with modifications) (15.1.2013) by [The Payments in Euro \(Credit Transfers and Direct Debits\) Regulations 2012 \(S.I. 2012/3122\), reg. 1, Sch. para. 1](#) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\), Sch. 2 para. 248\(6\)\(a\)](#))
- C18** Ss. 66-70 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\), regs. 1\(2\)\(c\), 95, Sch. 5 para. 1](#) (with reg. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\), Sch. 2 para. 155\(6\)\(a\)](#) (with Sch. 2 para. 156))

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- C19** Ss. 66-70 applied (with modifications) (11.2.2010) by The Cross-Border Payments in Euro Regulations 2010 (S.I. 2010/89), reg. 19, **Sch. para. 1**
- C20** S. 69 applied (with modifications) (7.6.2010) by The Credit Rating Agencies Regulations 2010 (S.I. 2010/906), **reg. 22(1)**
- C21** Ss. 66-70 applied (with modifications) (30.4.2011) by The Electronic Money Regulations 2011 (S.I. 2011/99), regs. 1(2)(b), 62, Sch. 3 para. 1 (with art. 3) (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 196(5)(a))
- C22** S. 69 applied (E.W.) (9.7.2013) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (S.I. 2013/1635), regs. 1, **29(1)**
- C23** S. 69 applied (12.12.2014) by The Immigration Act 2014 (Bank Accounts) Regulations 2014 (S.I. 2014/3085), regs. 1, **28(1)**

## 70 Statements of policy: procedure.

- (1) Before [<sup>F55</sup>a regulator issues] a statement under section 69, the [<sup>F56</sup>regulator] must publish a draft of the proposed statement in the way appearing to the [<sup>F56</sup>regulator] to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the [<sup>F57</sup>regulator] within a specified time.
- (3) Before issuing the proposed statement, the [<sup>F58</sup>regulator] must have regard to any representations made to it in accordance with subsection (2).
- (4) If the [<sup>F59</sup>regulator] issues the proposed statement it must publish an account, in general terms, of—
  - (a) the representations made to it in accordance with subsection (2); and
  - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1) in a way which is, in the opinion of the [<sup>F60</sup>regulator], significant, the [<sup>F60</sup>regulator] must (in addition to complying with subsection (4)) publish details of the difference.
- (6) [<sup>F61</sup>A regulator] may charge a reasonable fee for providing a person with a copy of a draft published [<sup>F62</sup>by it] under subsection (1).
- (7) This section also applies to a proposal to alter or replace a statement.

### Textual Amendments

- F55** Words in s. 70(1) 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. 18(2)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F56** Word in s. 70(1) 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. 18(2)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F57** Word in s. 70(2) 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. 18(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F58** Word in s. 70(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. 18(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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- F59** Word in s. 70(4) 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. 18(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F60** Word in s. 70(5) 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. 18(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F61** Words in s. 70(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. 18(4)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F62** Words in s. 70(6) 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. 18(4)(b)** (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)**

- C5** Ss. 66-70 applied (with modifications) (15.1.2013) by The Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 (S.I. 2012/3122), reg. 1, Sch. para. 1 (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 248(6)(a))
- C24** Ss. 66-70 applied (with modifications) (1.11.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(c), 95, **Sch. 5 para. 1** (with reg. 3) (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 155(6)(a) (with **Sch. 2 para. 156**))
- C25** Ss. 66-70 applied (with modifications) (11.2.2010) by The Cross-Border Payments in Euro Regulations 2010 (S.I. 2010/89), reg. 19, **Sch. para. 1**
- C26** S. 70 applied (with modifications) (7.6.2010) by The Credit Rating Agencies Regulations 2010 (S.I. 2010/906), **reg. 22(1)**
- C27** Ss. 66-70 applied (with modifications) (30.4.2011) by The Electronic Money Regulations 2011 (S.I. 2011/99), regs. 1(2)(b), 62, **Sch. 3 para. 1** (with art. 3) (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 196(5)(a)**)
- C28** S. 70 applied (E.W.) (9.7.2013) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (S.I. 2013/1635), regs. 1, **29(1)**
- C29** S. 70 applied (12.12.2014) by The Immigration Act 2014 (Bank Accounts) Regulations 2014 (S.I. 2014/3085), regs. 1, **28(1)**

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