



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART V

PERFORMANCE OF REGULATED ACTIVITIES

Conduct [^{F1}of approved persons]

Textual Amendments

- F1** Words in cross-heading before s. 64 inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 7](#)

64 Conduct: statements and codes.

[^{F2}(1) The FCA may issue statements of principle with respect to the conduct expected of persons in relation to whom either regulator has given its approval under section 59.

(1A) The PRA may issue statements of principle with respect to—

- (a) the conduct expected of persons in relation to whom it has given its approval under section 59, and
- (b) the conduct expected of persons in relation to whom the FCA has given its approval under section 59 in respect of the performance by them of significant-influence functions in relation to the carrying on by PRA-
authorised persons of regulated activities.

(1B) A statement of principle issued by either regulator may relate to conduct expected of persons in relation to—

- (a) the performance by them of controlled functions, or
- (b) the performance by them of any other functions in relation to the carrying on by authorised persons of regulated activities.]

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- (2) If [^{F3}a regulator] issues a statement of principle under subsection (1) [^{F4}or (1A)], it must also issue a code of practice for the purpose of helping to determine whether or not a person's conduct complies with the statement of principle.
- (3) A code issued under subsection (2) may specify—
 - (a) descriptions of conduct which, in the opinion of the [^{F5}regulator issuing the code], comply with a statement of principle;
 - (b) descriptions of conduct which, in the opinion of the [^{F5}regulator issuing the code], do not comply with a statement of principle;
 - (c) factors which, in the opinion of the [^{F5}regulator issuing the code], are to be taken into account in determining whether or not a person's conduct complies with a statement of principle.
- (4) [^{F6}A regulator] may at any time alter or replace a statement or code issued [^{F7}by it] under this section.
- (5) If a statement or code is altered or replaced [^{F8}by a regulator], the altered or replacement statement or code must be issued by the [^{F9}regulator].
- (6) A statement or code issued under this section must be published by [^{F10}the regulator that issued it] in the way appearing to [^{F11}that regulator] to be best calculated to bring it to the attention of the public.
- (7) A code published under this section and in force at the time when any particular conduct takes place may be relied on so far as it tends to establish whether or not that conduct complies with a statement of principle.
- (8) Failure to comply with a statement of principle under this section does not of itself give rise to any right of action by persons affected or affect the validity of any transaction.
- (9) A person is not to be taken to have failed to comply with a statement of principle if he shows that, at the time of the alleged failure, it or its associated code of practice had not been published.
- (10) [^{F12}A regulator] must, without delay, give the Treasury a copy of any statement or code which it publishes under this section.
- (11) The power under this section to issue statements of principle and codes of practice—
 - (a) includes power to make different provision in relation to persons, cases or circumstances of different descriptions; and
 - [^{F13}(b) is to be treated for the purposes of section 1B(6)(a) as part of the FCA's rule-making functions (where the power is exercisable by the FCA) and is to be treated for the purposes of section 2J(1)(a) as part of the PRA's rule-making functions (where the power is exercisable by the PRA).]
- (12) [^{F14}A regulator] may charge a reasonable fee for providing a person with a copy of a statement or code published [^{F15}by it] under this section.
- [^{F16}(13) Any expression which is used both in this section and section 59 has the same meaning in this section as in that section.]

Textual Amendments

- F2** S. 64(1)-(1B) substituted for s. 64(1) (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), ss. 14(4), 122(3) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

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- F3** Words in s. 64(2) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(2)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F4** Words in s. 64(2) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(2)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F5** Words in s. 64(3)(a)-(c) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F6** Words in s. 64(4) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(4)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F7** Words in s. 64(4) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(4)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F8** Words in s. 64(5) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(5)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F9** Word in s. 64(5) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(5)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F10** Words in s. 64(6) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(6)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F11** Words in s. 64(6) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(6)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F12** Words in s. 64(10) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(7)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F13** S. 64(11)(b) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(8)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F14** Words in s. 64(12) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(9)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F15** Words in s. 64(12) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(9)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F16** S. 64(13) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(10)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

65 Statements and codes: procedure.

- [^{F17}(1) Before a regulator issues a statement or code under section 64, it must—
- (a) consult the other regulator; and
 - (b) after doing so, publish a draft of the statement or code in the way appearing to it to be best calculated to bring the statement or code to the attention of the public.
- (1A) The duty of the FCA to consult the PRA under subsection (1)(a) applies only in so far as the statement or code applies to persons in relation to whom approval is given under section 59 in respect of the performance by them of significant-influence functions (within the meaning of that section) in relation to the carrying on by PRA-authorised persons of regulated activities.]
- (2) The draft must be accompanied by —
- (a) a cost benefit analysis; and
 - (b) notice that representations about the proposal may be made to [^{F18}the regulator publishing the draft] within a specified time.
- (3) Before [^{F19}a regulator issues] the proposed statement or code, [^{F20}it] must have regard to any representations made to it in accordance with subsection (2)(b).
- (4) If [^{F21}a regulator] issues the proposed statement or code it must publish an account, in general terms, of—

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- (a) the representations made to it in accordance with subsection (2)(b); and
 - (b) its response to them.
- (5) If the statement or code differs from the draft published under subsection (1) in a way which is, in the opinion of [^{F22}the regulator issuing the statement or code], significant—
- (a) [^{F23}the regulator] must (in addition to complying with subsection (4)) publish details of the difference; and
 - (b) those details must be accompanied by a cost benefit analysis.
- (6) Neither subsection (2)(a) nor subsection (5)(b) applies if [^{F24}the regulator concerned] considers—
- (a) that, making the appropriate comparison, there will be no increase in costs; or
 - (b) that, making that comparison, there will be an increase in costs but the increase will be of minimal significance.
- [^{F25}(7) Subsections (1)(b) and (2) to (6) do not apply in relation to—
- (a) a statement or code issued by the FCA if it considers that the delay involved in complying with them would be prejudicial to the interests of consumers, as defined in section 425A; or
 - (b) a statement or code issued by the PRA if it considers that the delay involved in complying with them would—
 - (i) be prejudicial to the safety and soundness of PRA-authorized persons, or
 - (ii) in a case where section 2C applies, be prejudicial to securing the appropriate degree of protection for policyholders.]
- (8) A statement or code must state that it is issued under section 64.
- (9) [^{F26}A regulator] may charge a reasonable fee [^{F27}for providing a copy of a draft published by it] under subsection (1).
- (10) This section also applies to a proposal to alter or replace a statement or code.
- [^{F28}(11) Cost benefit analysis” means—
- (a) an analysis of the costs together with an analysis of the benefits that will arise—
 - (i) if the proposed statement or code is issued, or
 - (ii) if subsection (5)(b) applies, from the statement or code that has been issued, and
 - (b) subject to subsection (11A), an estimate of those costs and of those benefits.
- (11A) If, in the opinion of the regulator concerned—
- (a) the costs or benefits referred to in subsection (11) cannot reasonably be estimated, or
 - (b) it is not reasonably practicable to produce an estimate,
- the cost benefit analysis need not estimate them, but must include a statement of the opinion of the regulator concerned and an explanation of it.]
- (12) “The appropriate comparison” means—
- (a) in relation to subsection (2)(a), a comparison between the overall position if the statement or code is issued and the overall position if it is not issued;

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- (b) in relation to subsection (5)(b), a comparison between the overall position after the issuing of the statement or code and the overall position before it was issued.

Textual Amendments

- F17** S. 65(1)(1A) substituted for s. 65(1) (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(2\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F18** Words in s. 65(2)(b) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F19** Words in s. 65(3) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(4\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F20** Word in s. 65(3) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(4\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F21** Words in s. 65(4) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(5\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F22** Words in s. 65(5) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(6\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F23** Words in s. 65(5) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(6\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F24** Words in s. 65(6) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(7\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F25** S. 65(7) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(8\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F26** Words in s. 65(9) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(9\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F27** Words in s. 65(9) inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(9\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F28** S. 65(11)(11A) substituted for s. 65(11) (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 5 para. 13\(10\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

Modifications etc. (not altering text)

- C1** S. 65 excluded (29.10.2004) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Mortgages\) Order 2004](#) (S.I. 2004/2615), arts. 1(2)(a), [4\(2\)](#)
- C2** S. 65 excluded (30.6.2008 for certain purposes, otherwise 1.1.2009) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2007](#) (S.I. 2007/3510), arts. 1(2), [6\(2\)](#)

66 Disciplinary powers.

- (1) [^{F29}A regulator] may take action against a person under this section [^{F30}(whether or not it has given its approval in relation to the person)] if—
- it appears to the [^{F31}regulator] that he is guilty of misconduct; and
 - the [^{F32}regulator] is satisfied that it is appropriate in all the circumstances to take action against him.

[^{F33}(2) For the purposes of action by the FCA, a person is guilty of misconduct if, while an approved person—

- the person has failed to comply with a statement of principle issued by the FCA under section 64, or

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- (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.
- (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-authorised 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 ^{F34}regulator] is entitled to take action under this section against a person, ^{F35}it may do one or more of the following—]
 - (a) impose a penalty on him of such amount as it considers appropriate;
 - ^{F36}(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.
- ^{F37}(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) ^{F38}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) ^{F39}A regulator] may not take action under this section after the end of the period of ^{F40}three years] beginning with the first day on which ^{F41}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) ^{F42}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).
- ^{F43}(5A) “Approval” means an approval given under section 59.]

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[^{F44}(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 ^{F45} . . . was given.

[^{F46}(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

- F29** 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.](#)
- F30** 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.](#)
- F31** 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.](#)
- F32** 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.](#)
- F33** 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.](#)
- F34** 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.](#)
- F35** Words in s. 66(3) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(2\)\(a\)](#), 26(2)(b)
- F36** S. 66(3)(aa)(ab) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(2\)\(b\)](#), 26(2)(b)
- F37** S. 66(3A)-(3D) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(3\)](#), 26(2)(b)
- F38** 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.](#)
- F39** 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.](#)
- F40** Words in s. 66(4) substituted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(4\)](#), 26(2)(b)
- F41** 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.](#)
- F42** 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.](#)
- F43** 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\(2\)](#)

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- F44** 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.
- F45** 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)**
- F46** 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)

- C3** 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)**
- C4** 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))
- C5** 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**
- C6** 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)**)
- 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 the Authority proposes to take action against a person under section 66, it must give him a warning notice^{F47}; 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.

^{F48}(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.]

- (3) A warning notice about a proposal to publish a statement must set out the terms of the statement.
- (4) If the Authority decides to take action against a person under section 66, it must give him a decision notice^{F49}; 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.

^{F50}(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,

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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 the Authority decides to take action against a person under section 66, he may refer the matter to the Tribunal^[F51]; and if the Authority 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.]

^[F52](8) Approval” means an approval given under section 59.

- (9) “Other interested parties”, in relation to an approved person (“A”), 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.

The reference in this subsection to an approved person has the same meaning as in section 64.]

Textual Amendments

- F47** 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\(2\)](#)
- F48** 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\(3\)](#)
- F49** 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\(4\)](#)
- F50** 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\(5\)](#)
- F51** 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\(6\)](#)
- F52** 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\(7\)](#)

Modifications etc. (not altering text)

- 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)
- 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)
- C12** 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, the Authority must send a copy of it to the person concerned and to any person to whom a copy of the decision notice was given.

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Modifications etc. (not altering text)

- C13** 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**))
- C14** 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**
- C15** 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)**)

69 Statement of policy.

- (1) ^{F53}Each regulator must] prepare and issue a statement of its policy with respect to—
 - ^{F54}(a) the imposition of penalties, suspensions or restrictions under section 66;
 - (b) the amount of penalties under that section; and
 - (c) the period for which suspensions or restrictions under that section are to have effect.]
- (2) ^{F55}A regulator's] policy in determining what the amount of a penalty should be ^{F56}, 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 ^{F57}the person against whom action is to be taken] is an individual.
- (3) ^{F58}A regulator] may at any time alter or replace a statement issued ^{F59}by it] under this section.
- (4) If a statement issued under this section is altered or ^{F60}replaced by a regulator, the regulator] must issue the altered or replacement statement.
- (5) ^{F61}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 ^{F62}by a regulator] must be published by ^{F63}the regulator] in the way appearing to ^{F63}the regulator] to be best calculated to bring it to the attention of the public.
- (7) The ^{F64}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, ^{F65}a regulator] must have regard to any statement of policy published ^{F66}by it] under this section and in force at the time when the misconduct in question occurred.

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Textual Amendments

- F53** Words in s. 69(1) substituted (24.1.2013 for specified purposes) 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
- F54** 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\(2\)](#)
- F55** Words in s. 69(2) substituted (24.1.2013 for specified purposes) 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
- F56** 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\(3\)\(a\)](#)
- F57** 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\(3\)\(b\)](#)
- F58** Words in s. 69(3) substituted (24.1.2013 for specified purposes) 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
- F59** Words in s. 69(3) inserted (24.1.2013 for specified purposes) 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
- F60** Words in s. 69(4) substituted (24.1.2013 for specified purposes) 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
- F61** Words in s. 69(5) substituted (24.1.2013 for specified purposes) 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
- F62** Words in s. 69(6) inserted (24.1.2013 for specified purposes) 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
- F63** Words in s. 69(6) substituted (24.1.2013 for specified purposes) 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
- F64** Word in s. 69(7) substituted (24.1.2013 for specified purposes) 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
- F65** Words in s. 69(8) substituted (24.1.2013 for specified purposes) 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
- F66** Words in s. 69(8) inserted (24.1.2013 for specified purposes) 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

Modifications etc. (not altering text)

- C16** 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)
- C17** 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](#)
- C18** S. 69 applied (with modifications) (7.6.2010) by [The Credit Rating Agencies Regulations 2010](#) (S.I. 2010/906), [reg. 22\(1\)](#)
- C19** 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)

70 Statements of policy: procedure.

- (1) Before [^{F67}a regulator issues] a statement under section 69, the [^{F68}regulator] must publish a draft of the proposed statement in the way appearing to the [^{F68}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 [^{F69}regulator] within a specified time.
- (3) Before issuing the proposed statement, the [^{F70}regulator] must have regard to any representations made to it in accordance with subsection (2).

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- (4) If the [^{F71}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 [^{F72}regulator], significant, the [^{F72}regulator] must (in addition to complying with subsection (4)) publish details of the difference.
- (6) [^{F73}A regulator] may charge a reasonable fee for providing a person with a copy of a draft published [^{F74}by it] under subsection (1).
- (7) This section also applies to a proposal to alter or replace a statement.

Textual Amendments

- F67** Words in s. 70(1) substituted (24.1.2013 for specified purposes) 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
- F68** Word in s. 70(1) substituted (24.1.2013 for specified purposes) 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
- F69** Word in s. 70(2) substituted (24.1.2013 for specified purposes) 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
- F70** Word in s. 70(3) substituted (24.1.2013 for specified purposes) 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
- F71** Word in s. 70(4) substituted (24.1.2013 for specified purposes) 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
- F72** Word in s. 70(5) substituted (24.1.2013 for specified purposes) 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
- F73** Words in s. 70(6) substituted (24.1.2013 for specified purposes) 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
- F74** Words in s. 70(6) inserted (24.1.2013 for specified purposes) 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

Modifications etc. (not altering text)

- C20** 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)
- C21** 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](#)
- C22** S. 70 applied (with modifications) (7.6.2010) by [The Credit Rating Agencies Regulations 2010](#) (S.I. 2010/906), [reg. 22\(1\)](#)
- C23** 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)

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