SCHEDULES

SCHEDULE 6

THRESHOLD CONDITIONS

Modifications etc. (not altering text)

C1 Sch. 6 modified (3.9.2001) by S.I. 2001/2507, arts. 1(1), 3(1); S.I. 2001/2632, art. 2(2), Sch. Pt. 2

[F1PART 1B

PART 4A PERMISSION: AUTHORISED PERSONS WHO ARE NOT PRA-AUTHORISED PERSONS

Textual Amendments

F1 Sch. 6 Pts. 1-1G substituted for Sch. 6 Pts. 1, 2 (1.4.2013) by The Financial Services and Markets Act 2000 (Threshold Conditions) Order 2013 (S.I. 2013/555), arts. 1, 2(2)

Introduction

2A. If the person concerned ("A") carries on, or is seeking to carry on, regulated activities which do not consist of or include a PRA-regulated activity, the threshold conditions that are relevant to the discharge by the FCA of its functions in relation to A are the conditions set out in paragraphs 2B to 2F.

Location of offices

- 2B. (1) Unless sub-paragraph (3) [F2, (4)(a) or (7)] applies, if A is a body corporate incorporated in the United Kingdom—
 - (a) A's head office, and
 - (b) if A has a registered office, that office,

must be in the United Kingdom.

- (2) If A is not a body corporate but A's head office is in the United Kingdom, A must carry on business in the United Kingdom.
- (3) If—
 - (a) A is seeking to carry on, or is carrying on, a regulated activity which is any of the investment services and activities,
 - (b) A is a body corporate with no registered office, and
 - (c) A's head office is in the United Kingdom,

A must carry on business in the United Kingdom.

- (4) If A is seeking to carry on, or is carrying on, an insurance [F3 distribution] activity—
 - (a) where A is a body corporate incorporated in the United Kingdom, A's registered office, or if A has no registered office, A's head office, must be in the United Kingdom;
 - (b) where A is an individual, A is to be treated for the purposes of subparagraph (2) as having a head office in the United Kingdom if A is resident in the United Kingdom.
- (5) "Insurance [F4distribution] activity" means any of the following activities—
 - (a) dealing in rights under a contract of insurance as agent;
 - (b) arranging deals in rights under a contract of insurance;
 - (c) assisting in the administration and performance of a contract of insurance;
 - (d) advising on buying or selling rights under a contract of insurance;
 - (e) agreeing to do any of the activities specified in paragraphs (a) to (d).
- (6) Sub-paragraph (5) must be read with—
 - (a) section 22,
 - (b) any relevant order under that section, and
 - (c) Schedule 2.
- [F5(7)] If A is seeking to carry on, or is carrying on, the regulated activity of managing an AIF and is, or upon being granted Part 4A permission to carry on that regulated activity would be, [F6a full-scope UKAIFM, A's head office and registered office must be in the United Kingdom][F6a full-scope UKAIFM—
 - (a) A's head office and registered office must be in the United Kingdom, or
 - (b) A's registered office must be in a third country].]

Textual Amendments

- F2 Words in Sch. 6 para. 2B(1) substituted (22.7.2013) by The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), reg. 1, Sch. 1 para. 36(a)
- F3 Word in Sch. 6 para. 2B(4) substituted (1.10.2018) by The Insurance Distribution (Regulated Activities and Miscellaneous Amendments) Order 2018 (S.I. 2018/546), arts. 1(2), 18(4)
- F4 Word in Sch. 6 para. 2B(5) substituted (1.10.2018) by The Insurance Distribution (Regulated Activities and Miscellaneous Amendments) Order 2018 (S.I. 2018/546), arts. 1(2), 18(4)
- F5 Sch. 6 para. 2B(7) inserted (22.7.2013) by The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), reg. 1, Sch. 1 para. 36(b)
- F6 Words in Sch. 6 para. 2B(7) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by The Alternative Investment Fund Managers (Amendment) Regulations 2013 (S.I. 2013/1797), reg. 1(3), Sch. 2 para. 1(6) (as amended by S.I. 2019/328, regs. 1(3), 20(2)(e) (as amended by S.I. 2019/325, reg. 58))

Effective supervision

- 2C. (1) A must be capable of being effectively supervised by the FCA having regard to all the circumstances including—
 - (a) the nature (including the complexity) of the regulated activities that A carries on or seeks to carry on;

- (b) the complexity of any products that A provides or will provide in carrying on those activities;
- (c) the way in which A's business is organised;
- (d) if A is a member of a group, whether membership of the group is likely to prevent the FCA's effective supervision of A;
- (e) whether A is subject to consolidated supervision required under any [F7 relevant implementing provisions];
- (f) if A has close links with another person ("CL")—
 - (i) the nature of the relationship between A and CL,
 - (ii) whether those links are or that relationship is likely to prevent the FCA's effective supervision of A, and
 - (iii) if CL is subject to the laws, regulations or administrative provisions of a [F8country or territory outside the United Kingdom] ("the foreign provisions"), whether those foreign provisions, or any deficiency in their enforcement, would prevent the FCA's effective supervision of A.
- [F9(1A) Paragraphs (a), (b) and (e) of sub-paragraph (1) do not apply where the only regulated activities that the person carries on, or seeks to carry on, are—
 - (a) relevant credit activities, and
 - (b) if any, activities to which, by virtue of section 39(1D), sections 20(1) and (1A) and 23(1A) do not apply when carried on by the person.]
 - (2) A has close links with CL if—
 - (a) CL is a parent undertaking of A,
 - (b) CL is a subsidiary undertaking of A,
 - (c) CL is a parent undertaking of a subsidiary undertaking of A,
 - (d) CL is a subsidiary undertaking of a parent undertaking of A,
 - (e) CL owns or controls 20% or more of the voting rights or capital of A, or
 - (f) A owns or controls 20% or more of the voting rights or capital of CL.

Textual Amendments

- F7 Words in Sch. 6 para. 2C(1)(e) substituted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), 98(a); 2020 c. 1, Sch. 5 para. 1(1)
- F8 Words in Sch. 6 para. 2C(1)(f)(iii) substituted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), 98(b); 2020 c. 1, Sch. 5 para. 1(1)
- F9 Sch. 6 para. 2C(1A) substituted (14.2.2014 for specified purposes) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 5(2)

Appropriate resources

- 2D. (1) The resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on.
 - (2) The matters which are relevant in determining whether A has appropriate resources include—
 - (a) the nature and scale of the business carried on, or to be carried on, by A;
 - (b) the risks to the continuity of the services provided by, or to be provided by, A;

- (c) A's membership of a group and any effect which that membership may have.
- (3) [F10 Except in a case within sub-paragraph (3A), the matters] which are relevant in determining whether A has appropriate financial resources include—
 - (a) the provision A makes and, if A is a member of a group, which other members of the group make, in respect of liabilities;
 - (b) the means by which A manages and, if A is a member of a group, by which other members of the group manage, the incidence of risk in connection with A's business.
- [FII(3A)] Where the only regulated activities that A carries on or seeks to carry on are—
 - (a) relevant credit activities, and
 - (b) if any, activities to which, by virtue of section 39(1D), sections 20(1) and (1A) and 23(1A) do not apply when carried on by A,

A has adequate financial resources if A is capable of meeting A's debts as they fall due.]

- (4) The matters which are relevant in determining whether A has appropriate non-financial resources include—
 - (a) the skills and experience of those who manage A's affairs;
 - (b) whether A's non-financial resources are sufficient to enable A to comply with—
 - (i) requirements imposed or likely to be imposed on A by the FCA in the exercise of its functions, or
 - (ii) any other requirement in relation to whose contravention the FCA would be the appropriate regulator for the purpose of any provision of Part 14 of this Act.

Textual Amendments

- F10 Words in Sch. 6 para. 2D(3) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), arts. 1(2)(6), 10(19)(b)(i)
- F11 Sch. 6 para. 2D(3A) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 5(3)

Suitability

- 2E. A must be a fit and proper person having regard to all the circumstances, including—
 - (a) A's connection with any person;
 - (b) the nature (including the complexity) of the regulated activities that A carries on or seeks to carry on;
 - (c) the need to ensure that A's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system;
 - (d) whether A has complied and is complying with requirements imposed by the FCA in the exercise of its functions, or requests made by the FCA, relating to the provision of information to the FCA and, where A has so complied or is so complying, the manner of that compliance;

- (e) whether those who manage A's affairs have adequate skills and experience and have acted and may be expected to act with probity;
- (f) whether A's business is being, or is to be, managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner;
- (g) the need to minimise the extent to which it is possible for the business carried on by A, or to be carried on by A, to be used for a purpose connected with financial crime.

Business model

- 2F. (1) A's business model (that is, A's strategy for doing business) must be suitable for a person carrying on the regulated activities that A carries on or seeks to carry on.
 - (2) The matters which are relevant in determining whether A satisfies the condition in sub-paragraph (1) include—
 - (a) whether the business model is compatible with A's affairs being conducted, and continuing to be conducted, in a sound and prudent manner;
 - (b) the interests of consumers;
 - (c) the integrity of the UK financial system.
 - (3) [F12This paragraph does not apply where the only regulated activities that the person carries on, or seeks to carry on, are—
 - (a) relevant credit activities, and
 - (b) if any, activities to which, by virtue of section 39(1D), sections 20(1) and (1A) and 23(1A) do not apply when carried on by the person.]

Textual Amendments

F12 Sch. 6 para. 2F(3) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 5(4)

Interpretation

I^{F13}2G.(1) In this Part of this Schedule, each of the following is a "relevant credit activity"—

- (a) an activity of the kind specified by article 36A of the Regulated Activities Order (credit broking) when carried on in the case specified in subparagraph (3), (4) or (5),
- (b) an activity of the kind specified by article 39D of that Order (debt adjusting) when carried on—
 - (i) in the case specified in sub-paragraph (3), by a person who also carries on an activity of the kind specified by paragraph (a),
 - [F14(ii) by a person in connection with an activity of the kind specified by paragraph (d) or (e) which the person also carries on,]
 - (iii) by a not-for-profit body,
- (c) an activity of the kind specified by article 39E of that Order (debt-counselling) when carried on—
 - (i) in the case specified in sub-paragraph (3), by a person who also carries on an activity of the kind specified by paragraph (a),

- [F15(ii) by a person in connection with an activity of the kind specified by paragraph (d) or (e) which the person also carries on,]
 - (iii) by a not-for-profit body,
- (d) an activity of the kind specified by article 60B of that Order (regulated credit agreements) if—
 - (i) it is carried on by a supplier,
 - (ii) no charge (by way of interest or otherwise) is payable by the borrower in connection with the provision of credit under the regulated credit agreement, and
 - (iii) the regulated credit agreement is not a hire-purchase agreement or a conditional sale agreement,
- [an activity of the kind specified by article 60B of that Order (regulated credit agreements) if carried on by a local authority,]
 - (e) an activity of the kind specified by article 60N of that Order (regulated consumer hire agreements),
 - (f) an activity of the kind specified by article 89A of that Order (providing credit information services) where carried on by a person [F17in connection with an activity of the kind specified by any of paragraphs (a) to (e) which the person also carries on], or
 - (g) an activity of the kind specified by article 64 of that Order (agreeing to carry on specified kinds of activity) so far as relevant to any of the activities specified in paragraphs (a) to (f).
- (2) [F18 Except where the activity is carried on by a not-for-profit body,] an activity is not a relevant credit activity for the purposes of—
 - (a) paragraph (a) to (e) of sub-paragraph (1), and
 - (b) paragraph (g) of that sub-paragraph so far at it relates to activities of the kind specified by any of those paragraphs,

if it relates to an agreement under which the obligation of the borrower to repay [F19 or the hirer to pay] is secured, or is to be secured, by a legal mortgage on land.

(3) The case specified in this sub-paragraph is where a supplier (other than a domestic premises supplier) carries on the activity for the purposes of, or in connection with, the sale of goods or supply of services by the supplier to a customer (who need not be the borrower under the credit agreement or the hirer under the consumer hire agreement).

[For the purposes of sub-paragraph (3), "domestic premises supplier" means a F²⁰(3A) supplier who—

- (a) sells, offers to sell or agrees to sell goods, or
- (b) offers to supply services or contracts to supply services,

to customers who are individuals while the supplier, or the supplier's representative, is physically present at the dwelling of the individual (but see sub-paragraph (3B)).

(3B) A supplier who acts as described in sub-paragraph (3A) on an occasional basis only will not be a domestic premises supplier unless the supplier indicates to the public at large, or any section of the public, the supplier's willingness to attend (in person or through a representative) the dwelling of potential customers in order to carry on any of the activities mentioned in sub-paragraph (3A)(a) or (b).]

- (4) The case specified in this sub-paragraph is where the activity relates to a green deal plan.
- [F21(5)] The case specified in this sub-paragraph is where the activity relates to a consumer hire agreement or a hire-purchase agreement.]
 - (6) For the purposes of this paragraph—

"borrower" includes—

- (a) any person providing a guarantee or indemnity under an agreement, and
- (b) a person to whom the rights and duties of the borrower under an agreement or a person falling within paragraph (a) have passed by assignment or operation of law;

"conditional sale agreement" has the meaning given by article 60L of the Regulated Activities Order;

[F22"consumer hire agreement" has the meaning given by article 60N(3) of the Regulated Activities Order;]

"customer" means a person to whom a supplier sells goods or supplies services or agrees to do so;

F23

"green deal plan" has the meaning given by section 1 of the Energy Act 2011;

"hire-purchase agreement" has the meaning given by the Regulated Activities Order;

[F24"local authority" means—

- (a) in England and Wales, a local authority within the meaning of the Local Government Act 1972, the Greater London Authority, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in Scotland, a local authority within the meaning of the Local Government (Scotland) Act 1973; and
- (c) in Northern Ireland, a district council within the meaning of the Local Government Act (Northern Ireland) 1972;]

"not-for-profit body" means a body which, by virtue of its constitution or any enactment—

- (a) is required (after payment of outgoings) to apply the whole of its income and any capital it expends for charitable or public purposes, and
- (b) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes);

"Regulated Activities Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

"regulated credit agreement" has the meaning given by the Regulated Activities Order;

"supplier" means a person whose main business is to sell goods or supply services and not to carry on a regulated activity, other than an activity of the kind specified by article 60N of the Regulated Activities Order (regulated consumer hire agreements).]

Textual Amendments

- F13 Sch. 6 para. 2G inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), arts. 1(2)(6), 10(19)(d)
- F14 Sch. 6 para. 2G(1)(b)(ii) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 5(5)(a)(i)
- F15 Sch. 6 para. 2G(1)(c)(ii) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 5(5)(a)(ii)
- F16 Sch. 6 para. 2G(1)(da) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 5(5)(a)(iii)
- F17 Words in Sch. 6 para. 2G(1)(f) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 5(5)(a)(iv)
- F18 Words in Sch. 6 para. 2G(2) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 5(5)(b)(i)
- F19 Words in Sch. 6 para. 2G(2) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 5(5)(b)(ii)
- F20 Sch. 6 para. 2G(3A)(3B) inserted (24.3.2015) by The Financial Services and Markets Act 2000 (Miscellaneous Provisions) Order 2015 (S.I. 2015/853), arts. 1(2), 2(2)
- F21 Sch. 6 para. 2G(5) substituted (24.3.2015) by The Financial Services and Markets Act 2000 (Miscellaneous Provisions) Order 2015 (S.I. 2015/853), arts. 1(2), 2(3)
- F22 Words in Sch. 6 para. 2G(6) inserted (24.3.2015) by The Financial Services and Markets Act 2000 (Miscellaneous Provisions) Order 2015 (S.I. 2015/853), arts. 1(2), 2(4)(a)
- F23 Words in Sch. 6 para. 2G(6) omitted (24.3.2015) by virtue of The Financial Services and Markets Act 2000 (Miscellaneous Provisions) Order 2015 (S.I. 2015/853), arts. 1(2), 2(4)(b)
- **F24** Words in Sch. 6 para. 2G(6) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 5(5)(c)

Changes to legislation:

Financial Services and Markets Act 2000, PART 1B is up to date with all changes known to be in force on or before 11 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. View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by S.I. 2023/1347 reg. 8
- Act power to apply conferred (temp. until 15.5.2039) by 2014 c. 21 s. 79(4)
- Act power to apply conferred (temp. until 15.5.2039) by 2014 c. 21 s. 81(10)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17 Ch. 3B inserted by 2023 c. 29 s. 64(3)
- Pt. 20C inserted by 2016 c. 14 s. 30(3)
- s. 31(1)(aa) inserted by 2021 c. 22 s. 22(2)
- s. 32A inserted by 2021 c. 22 s. 22(3)
- s. 32A power to apply (with modifications) conferred by 2021 c. 22 s. 23(10)
- s. 36A and cross-heading inserted by 2021 c. 22 s. 22(4)
- s. 71J and cross-heading inserted by 2021 c. 22 Sch. 8 para. 4
- s. 86(9A) inserted by S.I. 2019/707 reg. 8(9) (This amendment not applied to legislation.gov.uk. Reg. 8(6)-(10) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 13(c))
- s. 87A(11) inserted by S.I. 2019/707 reg. 10(5) (This amendment not applied to legislation.gov.uk. Reg. 10(4)(5) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 15(b))
- s. 124(10)(c)(i) word omitted by S.I. 2019/310 reg. 5(11)(b) (This amendment not applied to legislation.gov.uk. Reg. 5(11)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(e))
- s. 129(7)(a) word inserted by S.I. 2019/310 reg. 5(12)(a)(i) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 129(7)(c) omitted and word by S.I. 2019/310 reg. 5(12)(a)(ii) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 214(5A) inserted by 2021 c. 22 Sch. 8 para. 8
- s. 261E(A1) inserted by 2023 c. 29 s. 64(2)(a)
- s. 367A inserted by 2021 c. 22 Sch. 8 para. 10
- s. 395(13)(h)(i) inserted by 2021 c. 22 Sch. 8 para. 12(2)(c)
- s. 395(13)(bc)-(be) word inserted by 2021 c. 22 Sch. 8 para. 12(2)(b)
- s. 395(14) inserted by 2021 c. 22 Sch. 8 para. 12(3)
- s. 427A(3) words substituted by 2002 c. 40 Sch. 17 para. 59 (This amendment not applied to legislation.gov.uk. The Financial Services and Markets Act 2000 does not contain a section 427A.)
- Sch. 1ZA para. 32(c) and word inserted by 2021 c. 22 Sch. 8 para. 18
- Sch. 2A para. 19(2)(b)(iia) inserted by 2023 c. 29 Sch. 10 para. 19(a)
- Sch. 2A2B power to apply (with modifications) conferred by 2021 c. 22 s. 23(10)
- Sch. 2A power to apply (with modifications) conferred by 2021 c. 22 s. 23(10)
- Sch. 2B inserted by 2021 c. 22 Sch. 7
- Sch. 2B power to apply (with modifications) conferred by 2021 c. 22 s. 23(10)
- Sch. 11A para. 5(3) inserted by S.I. 2019/707 reg. 38(5)(b) (This amendment not applied to legislation.gov.uk. Reg. 38(2)-(5)(7)(8) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 20)

Sch. 17A para. 12 words substituted by S.I. 2019/662 reg. 13(1) (This amendment not applied to legislation.gov.uk. Reg. 13(1) substituted (25.6.2020) by S.I. 2020/646, regs. 1(2)(c), 11(3))