



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART V

#### PERFORMANCE OF REGULATED ACTIVITIES

##### *Approval*

#### **61 Determination of applications.**

[<sup>F1</sup>(1) The regulator to which an application for approval is made under section 60 may grant the application only if—

- (a) it is satisfied that the person in respect of whom the application is made (“the candidate”) is a fit and proper person to perform the function to which the application relates, or
- (b) in a case where the application is for approval to perform a designated senior management function <sup>F2</sup>... [<sup>F3</sup>(a “senior] management application”), it is satisfied that the condition in paragraph (a) will be met if the application is granted subject to one or more conditions (as to which, see subsection (2B)).]

(2) In [<sup>F4</sup>determining the application], [<sup>F5</sup>the regulator] may have regard (among other things) to whether the candidate, or any person who may perform a function on his behalf—

- (a) has obtained a qualification,
- (b) has undergone, or is undergoing, training, <sup>F6</sup>...
- (c) possesses a level of competence, [<sup>F7</sup>or
- (d) has the personal characteristics,]

required by general rules [<sup>F8</sup>made by that regulator] in relation to persons performing functions of the kind to which the application relates.

[<sup>F9</sup>(2A) Subsections (1) and (2) apply in relation to the giving by the FCA of any required consent as they apply in relation to the grant of the application.]

*Changes to legislation: Financial Services and Markets Act 2000, Section 61 is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[<sup>F10</sup>(2B) The regulator to which a <sup>F11</sup>... senior management application is made under section 60 may in particular—

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

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

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

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

(3) [<sup>F12</sup>The regulator to which an application is made under section 60 must, before the end of the period for consideration, determine] whether—

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

[<sup>F13</sup>(3ZA) In the case of a <sup>F14</sup>... senior management application, the reference in subsection (3)(a) to granting the application is a reference to granting it without imposing conditions or limiting the period for which the approval has effect.]

[<sup>F15</sup>(3A) The period for consideration”—

- (a) in any case where the application under section 60 is made by a person applying for permission under Part 4A (see section 60(6)), means whichever ends last of—
  - (i) the period within which the application for that permission must be determined under section 55V(1) or (2), and
  - (ii) the period of 3 months beginning with the date on which the regulator receives the application under section 60, and
- (b) in any other case, means the period of 3 months beginning with the date on which the regulator receives the application under section 60.]

(4) If [<sup>F16</sup>a regulator] imposes a requirement under section 60(3), the period for consideration stops running on the day on which the requirement is imposed but starts running again—

- (a) on the day on which the required information is received by [<sup>F16</sup>a regulator]; or
- (b) if the information is not provided on a single day, on the last of the days on which it is received by [<sup>F16</sup>a regulator].

(5) A person who makes an application under section 60 may withdraw his application by giving written notice to the [<sup>F17</sup>regulator to which the application was made] at any time before the [<sup>F18</sup>regulator] determines it, but only with the consent of—

- (a) the candidate; and
- (b) the person by whom the candidate is to be retained to perform the function concerned, if not the applicant.

<sup>F19</sup>(6) .....

<sup>F19</sup>(7) .....

**Changes to legislation:** Financial Services and Markets Act 2000, Section 61 is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## Textual Amendments

- F1** S. 61(1) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 23(2)**, 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F2** Words in s. 61(1)(b) omitted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), **Sch. 4 para. 6(2)**; S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with regs. 3-5, 7)
- F3** Words in s. 61(1)(b) inserted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), **Sch. 4 para. 6(2)**; S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with regs. 3-5, 7)
- F4** Words in s. 61(2) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 23(3)**, 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F5** Words in s. 61(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 5(3)(a)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F6** Word in s. 61(2)(b) omitted (7.3.2016) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 22(a)**, 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F7** S. 61(2)(d) and word inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 22(b)**, 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F8** Words in s. 61(2) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 5(3)(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F9** S. 61(2A) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 5(4)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F10** S. 61(2B)-(2D) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 23(4)**, 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F11** Word in s. 61(2B) omitted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), **Sch. 4 para. 6(3)**; S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with regs. 3-5, 7)
- F12** Words in s. 61(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 5(5)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F13** S. 61(3ZA) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 23(5)**, 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F14** Word in s. 61(3ZA) omitted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), **Sch. 4 para. 6(3)**; S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with regs. 3-5, 7)
- F15** S. 61(3A) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 5(6)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F16** Words in s. 61(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 5(7)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

**Changes to legislation:** Financial Services and Markets Act 2000, Section 61 is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F17** Words in s. 61(5) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 5(8)(a)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F18** Word in s. 61(5) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 5(8)(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F19** S. 61(6)(7) omitted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by virtue of Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 4 para. 6(4)**; S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with regs. 3-5, 7)

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

- C1** S. 61 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2009 (S.I. 2009/1342), **arts. 1(2), 34**, {Sch. paras. 1, 3}
- C2** Ss. 60-63 applied (with modifications) (31.12.2011) by The Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), **art. 8**
- C3** S. 61(3) modified (1.12.2001) by S.I. 2001/3592, **arts. 1(2), 49(3), 53(2)** (with art. 23(2))
- C4** S. 61(3) excluded (1.1.2004) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (S.I. 2003/1475), arts. 1(2), **28(2)**
- C5** S. 61(3) excluded (1.1.2004) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2003 (S.I. 2003/1476), arts. 1(2), **24(2), 26(2)**
- C6** S. 61(3) excluded (1.4.2017 for specified purposes) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017 (S.I. 2017/488), arts. 1(2), **15(2)** (with art. 16)
- C7** S. 61(3) excluded (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017 (S.I. 2017/488), arts. 1(2), **15(2)** (with art. 16)

#### Commencement Information

- I1** S. 61 wholly in force at 1.12.2001; s. 61 not in force at Royal Assent see s. 431(2); s. 61 in force for specified purposes at 3.9.2001 by S.I. 2001/2632, art. 2(2), **Sch. Pt. 2**; s. 61 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

### Changes to legislation:

Financial Services and Markets Act 2000, Section 61 is up to date with all changes known to be in force on or before 26 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))