



Financial Services Act 2012

2012 CHAPTER 21

PART 2

AMENDMENTS OF FINANCIAL SERVICES AND MARKETS ACT 2000

Performance of regulated activities

14 Approval for particular arrangements

- (1) In section 59 of FSMA 2000 (approval for particular arrangements)—
- (a) in subsections (1) and (2), for “the Authority” substitute “ the appropriate regulator ”, and
 - (b) for subsections (3) to (7) substitute—
 - “(3) Controlled function”—
 - (a) in relation to the carrying on of a regulated activity by a PRA-
authorised person, means a function of a description specified
in rules made by the FCA or the PRA, and
 - (b) in relation to the carrying on of a regulated activity by any
other authorised person, means a function of a description
specified in rules made by the FCA.
 - (4) “The appropriate regulator”—
 - (a) in relation to a controlled function which is of a description
specified in rules made by the FCA, means the FCA, and
 - (b) in relation to a controlled function which is of a description
specified in rules made by the PRA, means the PRA with the
consent of the FCA.
 - (5) The FCA may specify a description of function under subsection (3)
(a) or (b) only if, in relation to the carrying on of a regulated activity
by an authorised person, it is satisfied that the function is—
 - (a) a customer-dealing function, or

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- (b) a significant-influence function.
 - (6) The PRA may specify a description of function under subsection (3) (a) only if, in relation to the carrying on of a regulated activity by a PRA-authorized person, it is satisfied that the function is a significant-influence function.
 - (7) In determining whether a function is a significant-influence function, the FCA or the PRA may take into account the likely consequences of a failure to discharge the function properly.
 - (7A) “Customer-dealing function”, in relation to the carrying on of a regulated activity by an authorised person (“A”), means a function that will involve the person performing it in dealing with—
 - (a) customers of A, or
 - (b) property of customers of A,
 in a manner substantially connected with the carrying on of the activity.
 - (7B) “Significant-influence function”, in relation to the carrying on of a regulated activity by an authorised person, means a function that is likely to enable the person responsible for its performance to exercise a significant influence on the conduct of the authorised person’s affairs, so far as relating to the activity.”
- (2) After section 59 of FSMA 2000 insert—

“59A Specifying functions as controlled functions: supplementary

- (1) The FCA must—
 - (a) keep under review the exercise of its power under section 59(3)(a) to specify any significant-influence function as a controlled function, and
 - (b) exercise that power in a way that it considers will minimise the likelihood that approvals fall to be given by both the FCA and the PRA in respect of the performance by a person of significant-influence functions in relation to the carrying on of a regulated activity by the same PRA-authorized person.
- (2) The FCA and the PRA must each consult the other before exercising any power under section 59(3)(a).
- (3) Any reference in this section to the exercise of a power includes its exercise by way of amendment or revocation of provision previously made in the exercise of the power.
- (4) “Approval” means an approval under section 59.
- (5) Any expression which is used both in this section and section 59 has the same meaning in this section as in that section.

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59B Role of FCA in relation to PRA decisions

- (1) The FCA may arrange with the PRA that in such cases as may be described in the arrangements the PRA may give approval under section 59 without obtaining the consent of the FCA.
 - (2) Arrangements under this section must be in writing, and must specify the date on which they come into force.
 - (3) The regulators must publish any arrangements under this section in such manner as they think fit.
 - (4) Section 59(4)(b) has effect subject to any arrangements in force under this section.”
- (3) In section 63 of FSMA 2000 (withdrawal of approval), for subsection (1) substitute—
- “(1) The FCA may withdraw an approval under section 59 given by the FCA or the PRA in relation to the performance by a person of a function if the FCA considers that the person is not a fit and proper person to perform the function.
 - (1A) The PRA may withdraw an approval under section 59 in relation to the performance by a person (“A”) of a function if—
 - (a) the PRA gave the approval, or the FCA gave the approval and the function is a significant-influence function performed in relation to the carrying on by a PRA-authorized person of a regulated activity, and
 - (b) the PRA considers that A is not a fit and proper person to perform the function.
 - (1B) “Significant-influence function” has the same meaning as in section 59.
 - (1C) Before one regulator withdraws an approval given by the other regulator, it must consult the other regulator.”

^{F1}(4)

Textual Amendments

F1 S. 14(4) omitted (7.3.2016) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 3 para. 18](#); [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](#)))

Commencement Information

I1 S. 14 in force at 24.1.2013 for specified purposes by [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#)
I2 S. 14 in force at 1.4.2013 in so far as not already in force by [S.I. 2013/423](#), art. 3, [Sch.](#)

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

- Act power to apply conferred (temp.) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp.) by [2014 c. 21 s. 81\(10\)](#)