



Financial Services and Markets Act 2023

2023 CHAPTER 29

PART 6

MISCELLANEOUS

Other miscellaneous provisions

72 Liability of payment service providers for fraudulent transactions

- (1) The Payment Systems Regulator must prepare and publish a draft of a relevant requirement for reimbursement in such qualifying cases of payment orders as the Regulator considers should be eligible for reimbursement.
- (2) A case is a “qualifying case” for the purposes of this section if—
 - (a) the case relates to a payment order executed over the Faster Payments Scheme, and
 - (b) the payment order was executed subsequent to fraud or dishonesty.
- (3) The draft of the relevant requirement must—
 - (a) be published in the way appearing to the Payment Systems Regulator to be best calculated to bring it to the attention of the public;
 - (b) be accompanied by notice that representations about the proposed relevant requirement may be made to the Payment Systems Regulator within a specified time.
- (4) The duty imposed by subsection (1) must be carried out before the end of two months beginning with the day on which this section comes into force.
- (5) The Payment Systems Regulator must impose a relevant requirement, in whatever way and to whatever extent it considers appropriate, for reimbursement to be made in qualifying cases of payment orders.
- (6) In complying with the duty imposed by subsection (5) the Payment Systems Regulator must have regard to any representations made in accordance with subsection (3)(b).

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, Cross Heading: Other miscellaneous provisions. (See end of Document for details)

- (7) The duty imposed by subsection (5) must be carried out before the end of 6 months beginning with the day on which this section comes into force.
- (8) The duty under subsections (1) to (3), and under section 104(2) of the Financial Services (Banking Reform) Act 2013 in the application of that section to a relevant requirement imposed under subsection (5) of this section, may be satisfied by things done before (as well as after) this section comes into force.
- (9) Nothing in subsections (1) to (8) is to be taken as limiting the power of the Payment Systems Regulator—
- (a) to vary or revoke a relevant requirement imposed under the duty imposed by subsection (5), or
 - (b) to impose further relevant requirements (after that duty is complied with) in connection with reimbursement of payment orders executed subsequent to fraud or dishonesty.
- (10) In subsections (1) to (9)—
- “the Faster Payments Scheme” means the payment system, known as the Faster Payments Scheme, designated as a regulated payment system for the purposes of Part 5 of the Financial Services (Banking Reform) Act 2013 by order made by the Treasury in exercise of the power conferred by section 43(1) of that Act;
- “relevant requirement” means a requirement imposed by or under section 54 or 55 of the Financial Services (Banking Reform) Act 2013 (or by or under a combination of those sections).
- (11) In regulation 90 of the Payment Services Regulations 2017 ([S.I. 2017/752](#)) (liability of payment service providers for incorrect unique identifiers), after paragraph (5) insert—
- “(6) Nothing in this regulation affects the liability of a payment service provider under a relevant requirement in a case where the payment order is executed subsequent to fraud or dishonesty (and the requirements imposed by this regulation are subject to any such relevant requirements).
- (7) In this regulation, a “relevant requirement” means a requirement imposed by or under—
- (a) a direction given under regulation 125,
 - (b) a direction given under section 54 of the Financial Services (Banking Reform) Act 2013,
 - (c) a rule made under section 55 of that Act,
 - (d) an order made under section 56(3) of that Act, or
 - (e) a variation of an agreement under section 57(2) of that Act.”

Commencement Information

II [S. 72](#) in force at 29.8.2023, see [s. 86\(2\)\(i\)](#)

73 Credit unions

Schedule 14 amends the Credit Unions Act 1979 to make provision about additional financial activities credit unions may choose to carry on.

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, Cross Heading: Other miscellaneous provisions. (See end of Document for details)

Commencement Information

- I2** S. 73 not in force at Royal Assent, see **s. 86(3)**
I3 S. 73 in force at 29.8.2023 by **S.I. 2023/779, reg. 4(vv)**

74 Reinsurance for acts of terrorism

- (1) The Reinsurance (Acts of Terrorism) Act 1993 is amended as follows.
- (2) After section 2, insert—

“2A Directions

- (1) A relevant person must comply with any directions given to it by the Treasury under this section.
- (2) For the purposes of this section, a “relevant person” means—
 - (a) a person who—
 - (i) has entered into arrangements to which this Act applies (see section 2(1)) (whether before or after the passing of this Act), and
 - (ii) has been classified as a public sector body by the Office for National Statistics (whether before or after the passing of this Act), or
 - (b) a group undertaking of a person falling within paragraph (a) (within the meaning of section 1161 of the Companies Act 2006).
- (3) The Treasury may direct a relevant person to appoint a person to perform the functions of an accounting officer.
- (4) The Treasury may give a direction to a relevant person under this subsection if the Treasury consider it necessary for the purpose of ensuring compliance with any requirements associated with the classification, as mentioned in subsection (2)(a)(ii), of a person falling within subsection (2)(a).
- (5) Directions under subsection (4) may include provision about compliance with requirements relating to—
 - (a) auditing;
 - (b) accounting;
 - (c) budgeting;
 - (d) arm’s length bodies;
 - (e) public sector bodies.
- (6) Before giving a direction under this section the Treasury must consult the relevant person to whom the Treasury intend to give a direction.
- (7) A direction under this section must be accompanied by a notice that—
 - (a) states when the direction takes effect (see subsection (8)), and
 - (b) gives the Treasury’s reasons for giving the direction.
- (8) A direction may, if the Treasury reasonably consider it necessary, take effect—
 - (a) immediately it is given to the relevant person, or

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, Cross Heading: Other miscellaneous provisions. (See end of Document for details)

- (b) on a later date specified in the direction.
- (9) A direction may be given so as to have effect—
 - (a) for a specified period, or
 - (b) until the occurrence of a specified event.
- (10) A direction under this section must be given in writing.
- (11) A direction under this section must—
 - (a) be published in whatever manner the Treasury consider appropriate, and
 - (b) be laid before Parliament.
- (12) A direction under this section may be varied or revoked by another direction under this section.

2B Compliance

- (1) Compliance with a direction given under section 2A is enforceable—
 - (a) by injunction, or
 - (b) in Scotland, by interdict or by an order for specific performance under section 45 of the Court of Session Act 1988.
- (2) Proceedings under subsection (1) may be brought only by the Treasury.”

Commencement Information

I4 S. 74 in force at 29.8.2023, see s. 86(2)(j)

75 Banking Act 2009: miscellaneous amendments

- (1) The Banking Act 2009 is amended as follows.
- (2) In section 7A (effect on other group members, financial stability in UK etc)—
 - (a) in subsection (1), for “(4)(b)(ii)” substitute “(4), (4B)(b),”;
 - (b) after subsection (1) insert—
 - “(1A) Subsection (1) does not apply in relation to a requirement under section 3A(4) for a person to maintain (but not issue) a particular kind of bail-in liability.”
- (3) In section 83ZD (appointment of person to carry out investigations in particular cases), in subsection (3)(a), for “83ZN” substitute “83ZR”.
- (4) In section 89H (recognition of third-country resolution actions), in subsection (7), in the definition of “third-country resolution action”—
 - (a) in the words before paragraph (a), for “, third country parent undertaking or a bank, building society, credit union or investment firm” substitute “or third-country parent undertaking”;
 - (b) in paragraph (a), omit “or a bank, building society, credit union or investment firm”.
- (5) In section 182 (interpretation: “payment system”)—

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, Cross Heading: Other miscellaneous provisions. (See end of Document for details)

- (a) in subsection (1), after “arrangements” insert “, or proposed arrangements,”;
 - (b) in subsection (5), after “operates” insert “, or is intended to operate,”.
- (6) In section 244 (immunity), in subsection (2)(c) after “2000,” insert “of its functions under, or as a result of regulations made under, the Financial Services and Markets Act 2023,”.

Commencement Information

- I5** S. 75 not in force at Royal Assent, see [s. 86\(3\)](#)
I6 S. 75 in force at 29.8.2023 by [S.I. 2023/779](#), [reg. 4\(ww\)](#)

76 Arrangements for the investigation of complaints

- (1) The Financial Services Act 2012 is amended in accordance with subsections (2) and (3).
- (2) In section 84 (arrangements for the investigation of complaints)—
- (a) omit the “and” at the end of subsection (1)(a);
 - (b) omit subsection (1)(b);
 - (c) after subsection (1) insert—

“(1A) The Treasury must appoint an independent person (“the investigator”) to be responsible for the conduct of investigations in accordance with the complaints scheme.”;
 - (d) omit subsection (4);
 - (e) in subsection (5), in the opening words, for “regulators” substitute “Treasury”.
- (3) In section 87 (investigation of complaints)—
- (a) in subsection (9A), after paragraph (b) insert—

“(ba) for the regulator’s response under paragraph (b) to include a summary of—

 - (i) the cases in which the regulator decided not to follow any relevant recommendations, and
 - (ii) the reasons for not following those recommendations;”;
 - (b) in subsection (9B), after paragraph (e) insert—

“(f) such other matters as the Treasury may from time to time direct.”;
 - (c) after subsection (9B) insert—

“(9C) In subsection (9A)(ba) the reference to “relevant recommendations”, in relation to the regulator’s response in respect of an annual report, is a reference to—

 - (a) any recommendations to the regulator contained in that annual report, and
 - (b) any recommendations to the regulator contained in final reports relating to individual complaints given during the period to which that annual report relates.”

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, Cross Heading: Other miscellaneous provisions. (See end of Document for details)

Commencement Information

- I7** S. 76 not in force at Royal Assent, see **s. 86(3)**
I8 S. 76 in force at 29.8.2023 by **S.I. 2023/779, reg. 4(xx)**

77 Politically exposed persons: money laundering and terrorist financing

- (1) The Treasury must exercise the power conferred by section 49 of the Sanctions and Anti-Money Laundering Act 2018 (power of appropriate Minister to make regulations about money laundering etc) for the purpose mentioned in subsection (2).
- (2) The purpose is to make provision amending Part 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (**S.I. 2017/692**) (“the 2017 Regulations”) (customer due diligence) so as to secure the result required by subsection (3).
- (3) The result required by this subsection is that, where a customer is a domestic PEP, or a family member or a known close associate of a domestic PEP—
 - (a) the starting point for the relevant person’s assessment under regulation 35(3) of the 2017 Regulations is that the customer presents a lower level of risk than a non-domestic PEP, and
 - (b) if no enhanced risk factors are present, the extent of enhanced customer due diligence measures to be applied in relation to that customer is less than the extent to be applied in the case of a non-domestic PEP.
- (4) In this section—
 - (a) “customer” includes a potential customer;
 - (b) “domestic PEP” means a politically exposed person entrusted with prominent public functions by the United Kingdom;
 - (c) “enhanced risk factors”, in relation to a customer who is a domestic PEP or a family member or a known close associate of that domestic PEP, mean risk factors other than the customer’s position as a domestic PEP or as a family member or known close associate of that domestic PEP;
 - (d) “non-domestic PEP” means a politically exposed person who is not a domestic PEP;
 - (e) the following terms have the same meaning as in regulation 35(12) of the 2017 Regulations—
 - “politically exposed person” or “PEP”;
 - “family member”;
 - “known close associate”.
- (5) Section 55 of the Sanctions and Anti-Money Laundering Act 2018 (Parliamentary procedure for regulations) does not apply to regulations made in compliance with the duty imposed by subsection (1).
- (6) Regulations made in compliance with the duty imposed by subsection (1)—
 - (a) are subject to the negative procedure, and
 - (b) must be laid before Parliament in accordance with paragraph (a) before the end of 12 months starting with the day on which this section comes into force.

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, Cross Heading: Other miscellaneous provisions. (See end of Document for details)

- (7) The Treasury must, before the end of 6 months starting with the day on which this section comes into force, lay before Parliament a statement setting out what progress has been made towards making the regulations in compliance with the duty imposed by subsection (1).
- (8) The duty in subsection (7) does not apply where the regulations have been laid before Parliament in accordance with subsection (6)(a) before the end of 6 months starting with the day on which this section comes into force.

Commencement Information

19 S. 77 in force at Royal Assent, see [s. 86\(1\)\(f\)](#)

78 Politically exposed persons: review of guidance

- (1) The FCA must review its guidance on politically exposed persons (“PEPs”) given under section 139A of FSMA 2000 and in compliance with the requirements under regulation 48 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ([S.I. 2017/692](#)) (“the 2017 Regulations”).
- (2) The review required under subsection (1) must include—
- (a) an assessment of the extent to which the guidance is followed by those persons to whom it is given under regulation 48 of the 2017 Regulations, and
 - (b) in the light of that assessment, consideration as to whether the guidance remains appropriate or whether it should be revised.
- (3) The FCA must—
- (a) before the end of 3 months beginning with the day on which this section comes into force, publish an update on the FCA’s plan for the review required under subsection (1), and
 - (b) before the end of 12 months beginning with the day on which this section comes into force—
 - (i) publish the conclusions of the review, and
 - (ii) where the FCA concludes that the guidance should be revised, publish draft revised guidance for consultation.
- (4) Publication as required by subsection (3) must be in the way appearing to the FCA to be best calculated to bring the publication to the attention of persons likely to be affected by it.
- (5) The FCA is not required under this section to publish any information whose publication would be against the public interest.
- (6) In this section—
- (a) “domestic PEP” means a politically exposed person entrusted with prominent public functions by the United Kingdom;
 - (b) the following terms have the same meaning as in regulation 35(12) of the 2017 Regulations—
 - “politically exposed person” or “PEP”;
 - “family member”;

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, Cross Heading: Other miscellaneous provisions. (See end of Document for details)

“known close associate”.

Commencement Information

I10 S. 78 in force at Royal Assent, see **s. 86(1)(g)**

79 Forest risk commodities: review

- (1) The Treasury must carry out a review to assess the extent to which regulation of the UK financial system is adequate for the purpose of eliminating the financing of the use of prohibited forest risk commodities.
- (2) In subsection (1) the reference to “prohibited” forest risk commodities is a reference to forest risk commodities, or products derived from forest risk commodities, the use of which is prohibited by paragraph 2 of Schedule 17 to the Environment Act 2021.
- (3) Having carried out a review the Treasury must lay before Parliament, and publish, a report stating—
 - (a) the conclusions of the review, and
 - (b) the steps the Treasury consider it appropriate to take to improve the effectiveness of the regulation of the UK financial system for the purpose stated in subsection (1).
- (4) Subsection (3) must be complied with before the end of 9 months beginning with the day on which the first regulations under paragraph 1 of Schedule 17 to the Environment Act 2021 are made.
- (5) In this section—

“forest risk commodities” has the same meaning as in Schedule 17 to the Environment Act 2021;

“UK financial system” has the same meaning as in FSMA 2000 (see section 11 of that Act).

Commencement Information

I11 S. 79 not in force at Royal Assent, see **s. 86(3)**

I12 S. 79 in force at 29.8.2023 by **S.I. 2023/779, reg. 4(yy)**

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