

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 20

FINANCIAL PROMOTION: RELATED AMENDMENTS

1 FSMA 2000 is amended as follows.

Commencement Information

- I1** Sch. 5 para. 1 not in force at Royal Assent, see **s. 86(3)**
- I2** Sch. 5 para. 1 in force at 6.9.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(a)(2)(b)(i)**
- I3** Sch. 5 para. 1 in force at 6.11.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(b)(2)(b)(i)(4)**
- I4** Sch. 5 para. 1 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, **reg. 2(3)**

2 In section 1H (further interpretative provisions for sections 1B to 1G), in subsection (2)(c) after “invitations” insert “or inducements”.

Commencement Information

- I5** Sch. 5 para. 2 not in force at Royal Assent, see **s. 86(3)**
- I6** Sch. 5 para. 2 in force at 6.9.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(a)(2)(b)(ii)**
- I7** Sch. 5 para. 2 in force at 6.11.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(b)(2)(b)(ii)(4)**
- I8** Sch. 5 para. 2 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, **reg. 2(3)**

3 In section 25 (contravention of section 21), in subsection (2)(a) after “section 21” insert “in accordance with subsection (2A) of that section”.

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- I9** Sch. 5 para. 3 not in force at Royal Assent, see **s. 86(3)**
- I10** Sch. 5 para. 3 in force at 6.9.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(a)(2)(b)(ii)** (with reg. 3)
- I11** Sch. 5 para. 3 in force at 6.11.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(b)(2)(b)(ii)(4)** (with reg. 3)
- I12** Sch. 5 para. 3 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, **reg. 2(3)** (with reg. 3)

4 In section 55A (application for permission), after subsection (5) insert—
“(6) References in this section to permission under this Part do not include references to permission under section 55NA.”

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- I13** Sch. 5 para. 4 not in force at Royal Assent, see **s. 86(3)**
- I14** Sch. 5 para. 4 in force at 6.9.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(a)(2)(b)(ii)**
- I15** Sch. 5 para. 4 in force at 6.11.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(b)(2)(b)(ii)(4)**

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I16 Sch. 5 para. 4 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, reg. 2(3)

- 5 (1) Section 55O (imposition of requirements on acquisition of control) is amended as follows.
- (2) In subsection (1)(b), after “power” insert “or (as the case may be) the power under section 55NA(5)(b)”.
- (3) In subsection (2)(a) for “or 55M” substitute “, 55M or 55NA”.
- (4) In subsection (3), after “PRA-authorised person” insert “and the case does not relate to a requirement that is imposed (or that could be imposed) under section 55NA”.

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- I17** Sch. 5 para. 5 not in force at Royal Assent, see s. 86(3)
I18 Sch. 5 para. 5 in force at 7.2.2024 by S.I. 2023/936, reg. 2(3)

- 6 In section 55R (persons connected with an applicant), in subsection (1) after paragraph (b) insert—
- “(ba) an application for permission under section 55NA,
 (bb) whether to vary or cancel permission under section 55NA,”.

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- I19** Sch. 5 para. 6 not in force at Royal Assent, see s. 86(3)
I20 Sch. 5 para. 6 in force at 6.9.2023 for specified purposes by S.I. 2023/936, reg. 2(1)(a)(2)(b)(ii)
I21 Sch. 5 para. 6 in force at 6.11.2023 for specified purposes by S.I. 2023/936, reg. 2(1)(b)(2)(b)(ii)(4)
I22 Sch. 5 para. 6 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, reg. 2(3)

- 7 In section 55U (applications under Part 4A), after subsection (3) insert—
- “(3A) An application for permission under section 55NA, or for the variation of permission under that section, must contain a statement of the desired permission or variation.”

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- I23** Sch. 5 para. 7 not in force at Royal Assent, see s. 86(3)
I24 Sch. 5 para. 7 in force at 6.9.2023 for specified purposes by S.I. 2023/936, reg. 2(1)(a)(2)(b)(ii)
I25 Sch. 5 para. 7 in force at 6.11.2023 for specified purposes by S.I. 2023/936, reg. 2(1)(b)(2)(b)(ii)(4)
I26 Sch. 5 para. 7 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, reg. 2(3)

- 8 In section 55V (determination of applications), in subsection (5)—
- (a) omit “or” at the end of paragraph (c);
 (b) after paragraph (d) insert “, or
 (e) for permission under section 55NA or for the variation or cancellation of permission granted under that section,”.

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- I27** Sch. 5 para. 8 not in force at Royal Assent, see s. 86(3)

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- I28** Sch. 5 para. 8 in force at 6.9.2023 for specified purposes by S.I. 2023/936, reg. 2(1)(a)(2)(b)(ii)
I29 Sch. 5 para. 8 in force at 6.11.2023 for specified purposes by S.I. 2023/936, reg. 2(1)(b)(2)(b)(ii)(4)
I30 Sch. 5 para. 8 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, reg. 2(3)

9 (1) Section 55X (determination of applications: warning notices and decision notices) is amended as follows.

(2) In subsection (1)—

- (a) omit “or” at the end of paragraph (d);
- (b) after paragraph (e) insert—
 - “(f) to give permission under section 55NA but to exercise its power under subsection (4)(b) of that section, or
 - (g) to vary permission under section 55NA on the application of an authorised person but to exercise its power under subsection (4)(b) of that section,”.

(3) In subsection (4)—

- (a) omit “or” at the end of paragraph (e);
- (b) after that paragraph insert—
 - “(ea) to give permission under section 55NA but to exercise its power under subsection (4)(b) of that section,
 - (eb) to vary permission under section 55NA on the application of an authorised person but to exercise its power under subsection (4)(b) of that section, or”.

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- I31** Sch. 5 para. 9 not in force at Royal Assent, see s. 86(3)
I32 Sch. 5 para. 9 in force at 6.9.2023 for specified purposes by S.I. 2023/936, reg. 2(1)(a)(2)(b)(ii)
I33 Sch. 5 para. 9 in force at 6.11.2023 for specified purposes by S.I. 2023/936, reg. 2(1)(b)(2)(b)(ii)(4)
I34 Sch. 5 para. 9 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, reg. 2(3)

10 (1) Section 55Y (exercise of own-initiative power: procedure) is amended as follows.

(2) After subsection (1) insert—

“(1A) This section also applies to an exercise of the FCA’s power under subsection (5)(b) of section 55NA to vary of its own initiative a permission given under that section to an authorised person (“A”).

(1B) References in this section to a regulator’s own initiative variation power are to be taken as including the power mentioned in subsection (1A).”

(3) For subsection (4) substitute—

- “(4) If either regulator—
- (a) proposes to vary a Part 4A permission or to impose or vary a requirement,
 - (b) varies a Part 4A permission, or imposes or varies a requirement, with immediate effect,
 - (c) proposes to vary a permission under section 55NA, or
 - (d) varies permission under section 55NA with immediate effect,

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it must give A written notice.”

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- I35** Sch. 5 para. 10 not in force at Royal Assent, see **s. 86(3)**
- I36** Sch. 5 para. 10 in force at 6.9.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(a)(2)(b)(ii)**
- I37** Sch. 5 para. 10 in force at 6.11.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(b)(2)(b)(ii)(4)**
- I38** Sch. 5 para. 10 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, **reg. 2(3)**

- 11 (1) Section 55Z (cancellation of Part 4A permission: procedure) is amended as follows.
- (2) In the heading, after “permission” insert “or permission under section 55NA”.
 - (3) In subsection (1) after “permission” insert “or permission under section 55NA”.
 - (4) In subsection (2) after “permission” insert “or permission under section 55NA”.

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- I39** Sch. 5 para. 11 not in force at Royal Assent, see **s. 86(3)**
- I40** Sch. 5 para. 11 in force at 6.9.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(a)(2)(b)(ii)**
- I41** Sch. 5 para. 11 in force at 6.11.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(b)(2)(b)(ii)(4)**
- I42** Sch. 5 para. 11 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, **reg. 2(3)**

- 12 In section 55Z3 (right to refer matters to the Tribunal), after subsection (2) insert—
- “(2A) An authorised person who is aggrieved by the exercise by the FCA of its power under section 55NA(5)(b) may refer the matter to the Tribunal.”

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- I43** Sch. 5 para. 12 not in force at Royal Assent, see **s. 86(3)**
- I44** Sch. 5 para. 12 in force at 6.9.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(a)(2)(b)(ii)**
- I45** Sch. 5 para. 12 in force at 6.11.2023 for specified purposes by S.I. 2023/936, **reg. 2(1)(b)(2)(b)(ii)(4)**
- I46** Sch. 5 para. 12 in force at 7.2.2024 in so far as not already in force by S.I. 2023/936, **reg. 2(3)**

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