
STATUTORY INSTRUMENTS

2013 No. 442

The Financial Services Act 2012 (Transitional Provisions) (Miscellaneous Provisions) Order 2013

PART 2

The FCA and the PRA

The governing body of the Authority

2.—(1) Paragraph (2) applies to the persons who, immediately before the commencement date, were the persons appointed to be the chairman and the other members of the governing body of the Authority.

(2) The appointment of a person as the chairman or other member of the governing body of the Authority terminates on the commencement date.

The annual report of the FCA

3.—(1) Paragraphs (2) and (3) apply to the first annual report made by the FCA(1) in accordance with paragraph 11 of Schedule 1ZA(2) (the Financial Conduct Authority).

(2) The report must be made within a year of the date on which the last annual report made by the Authority in accordance with paragraph 10 of Schedule 1 (as that paragraph applied on the date on which that report was made) was made.

(3) To the extent that the report relates to a period before the commencement date, paragraph 11 of Schedule 1ZA applies as if it required the FCA also to report on—

- (a) the discharge by the Authority of its functions;
- (b) the extent to which, in the FCA's opinion, the regulatory objectives of the Authority were met; and
- (c) the FCA's consideration of the matters specified in section 2(3)(3) (the Authority's general duties) as it applied to the Authority immediately before the commencement date.

The annual report of the PRA

4.—(1) Paragraph (2) applies to the first annual report made by the PRA(4) for the purposes of paragraph 19 of Schedule 1ZB (the Prudential Regulation Authority).

(2) Paragraph 19(1) of Schedule 1ZB applies as if it required that annual report to be made no later than 31st July 2014.

(1) Section 1A(1) of FSMA 2000 renames the Financial Services Authority as the Financial Conduct Authority. Section 1A(2) of FSMA 2000 defines "the FCA" as the Financial Conduct Authority. Section 1A is inserted by the 2012 Act, section 6.

(2) Schedule 1ZA and 1ZB are substituted for Schedule 1 by the 2012 Act, section 6 and Schedule 3.

(3) Section 2(3) was amended by the Financial Services Act 2010 (c.28), section 2.

(4) Section 2A(2) of FSMA 2000 defines "the PRA" as the Prudential Regulation Authority. Section 2A is inserted by the 2012 Act, section 6.

The Practitioner Panel

5.—(1) Paragraph (2) applies in respect of the persons who, immediately before the commencement date, were the persons appointed by the Authority in accordance with section 9(5)(5) (the practitioner panel) to be members of the Practitioner Panel established in accordance with that section.

(2) The persons are to be treated as if appointed by the FCA in accordance with section 1N(4) and (5)(6) (the FCA practitioner panel) to be members of the FCA Practitioner Panel established in accordance with that section.

The Consumer Panel

6.—(1) Paragraph (2) applies in respect of the persons who, immediately before the commencement date, were the persons appointed by the Authority in accordance with section 10(7) (the consumer panel) to be members of the Consumer Panel established in accordance with that section.

(2) The persons are to be treated as if appointed by the FCA in accordance with section 1Q(4) and (5)(8) (the consumer panel) to be members of the Consumer Panel established in accordance with that section.

(3) Paragraph (4) applies in respect of the person who, immediately before the commencement date, was the person appointed by the Authority in accordance with section 10(2) and (3) to be chairman of the Consumer Panel established in accordance with that section.

(4) The person is to be treated as if appointed by the FCA in accordance with section 1Q(2) and (3) to be the chair of the Consumer Panel established in accordance with that section.

Definition of “consumers”

7.—(1) For the purposes of the provisions listed in paragraph (2), “consumers” includes persons—

- (a) who used any of the services provided before section 19 came into force by—
 - (i) persons who were then regulated persons in carrying on relevant activities, or
 - (ii) a credit union in the course of accepting deposits;
- (b) who have rights or interests which are derived from, or are otherwise attributable to, the use of any such services by other persons; or
- (c) who have rights or interests which may be adversely affected by the use of any such services by persons acting on their behalf or in a fiduciary capacity in relation to them.

(2) The provisions are—

- (a) section 1G(9) (meaning of consumer);
- (b) section 1Q;
- (c) section 391(6)(b)(10) (publication);
- (d) section 68 of the 2012 Act (cases in which Treasury may arrange independent inquiries).

(3) In this article—

(5) Section 9 is repealed by the 2012 Act, section 6.

(6) Section 1N is inserted by the 2012 Act, section 6.

(7) Section 10 was amended by the Consumers, Estate Agents and Redress Act 2007 (c.17), section 39, and the Financial Services Act 2010 (c.28), Schedule 2, Part 1, paragraph 5 and is repealed by the 2012 Act, section 6.

(8) Section 1Q is inserted by the 2012 Act, section 6.

(9) Section 1G is inserted by the 2012 Act, section 6.

(10) Section 391(6) is substituted by the 2012 Act, Schedule 9, Part 6, paragraph 30.

“regulated person” means, in relation to a time before section 19 came into force—

- (a) an authorised person within the meaning of the Financial Services Act 1986⁽¹¹⁾;
- (b) a person who was an exempted person by virtue of section 43⁽¹²⁾ (listed money market institutions) or section 44⁽¹³⁾ (appointed representatives) of that Act;
- (c) an authorised institution within the meaning of the Banking Act 1987⁽¹⁴⁾;
- (d) a person who was authorised under section 3 or 4 of the Insurance Companies Act 1982⁽¹⁵⁾;
- (e) a European institution within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992⁽¹⁶⁾;
- (f) a European investment firm within the meaning of the Investment Services Regulations 1995⁽¹⁷⁾;
- (g) an EC company within the meaning of the Insurance Companies Act 1982 which, by virtue of paragraph 1 or 8 of Schedule 2F⁽¹⁸⁾ to that Act, was able to carry on direct insurance business through a branch in the United Kingdom or provide insurance in the United Kingdom;
- (h) a friendly society which was authorised or treated as authorised for the purposes of Part IV of the Friendly Societies Act 1992⁽¹⁹⁾, or which was permitted by virtue of section 31(2) or (3) of that Act to carry on any activities without authorisation under that Part; or
- (i) a building society which was authorised or treated as authorised for the purposes of the Building Societies Act 1986⁽²⁰⁾;

“relevant activities” means—

- (j) in relation to persons falling within sub-paragraph (a), (b), (e) or (f) of the definition of “regulated person”, activities constituting investment business within the meaning of the Financial Services Act 1986;
- (k) in relation to persons falling within sub-paragraph (c), (e) or (i) of that definition, activities constituting a deposit-taking business within the meaning of the Banking Act 1987;
- (l) in relation to persons falling within sub-paragraph (d) or (g) of that definition, activities constituting insurance business within the meaning of the Insurance Companies Act 1982;
- (m) in relation to persons falling within sub-paragraph (h) of that definition, activities constituting insurance business within the meaning of the Friendly Societies Act 1992.

(4) For the purposes of this article—

- (a) where a person provided a service mentioned in paragraph (1) as a trustee, the persons who are, have been or may be beneficiaries of the trust are to be treated as persons who use, have used or may use the service;

⁽¹¹⁾ 1986 c.60; repealed by S.I. 2001/3649.

⁽¹²⁾ Section 43 was amended by the Bank of England Act 1998 (c. 11) sections 23, 25 and 26 and modified by S.I. 1992/3218, S.I. 1995/3275 and S.I. 1996/1669.

⁽¹³⁾ Section 44 was modified by S.I. 1992/3218 and S.I. 1995/3275.

⁽¹⁴⁾ 1987 c.22; repealed by S.I. 2001/3649.

⁽¹⁵⁾ 1982 c.50; repealed by S.I. 2001/3649; section 3 was amended by S.I. 1997/2781.

⁽¹⁶⁾ S.I. 1992/3218; revoked by S.I. 2001/3649; relevant amendments were made by S.I. 1999/2094.

⁽¹⁷⁾ S.I. 1995/3275; revoked by S.I. 2001/3649.

⁽¹⁸⁾ Schedule 2F was inserted by S.I. 1994/1696 and amended by S.I. 1997/2781.

⁽¹⁹⁾ 1992 c.40; Part IV repealed by FSMA 2000, Schedule 18, Part 1, paragraph 5.

⁽²⁰⁾ 1986 c.53; section 9 and Schedule 3 repealed by FSMA 2000, Schedule 18, Part 3, paragraphs 17 and 18.

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- (b) a person who deals, or dealt, with another person (“A”) in the course of A providing a service mentioned in paragraph (1) is to be treated as using, or having used, the service.