

SCHEDULE 7

Regulation 42

Application and modification of legislation

PART 1

Application and modification of the Act

The Tribunal

1.—(1) Section 133**(1)** (proceedings before Tribunal: general provision) to section 133B**(2)** (offences) of the Act apply in respect of references and appeals made to the Tribunal under these Regulations as they apply in respect of references and appeals made to the Tribunal under the Act in respect of a decision of the FCA with the following modifications.

(2) Section 133 applies as if for subsection (7A) there were substituted—

“(7A) A reference is a “disciplinary reference” for the purposes of this section if it is in respect of any of the following decisions made under the Payment Accounts Regulations 2015—

- (a) a decision to publish a statement under regulation 33;
- (b) a decision to impose a penalty under regulation 34;
- (c) a decision to publish a statement under regulation 35;
- (d) a decision to impose a penalty under regulation 35.”.

(3) Section 133A**(3)** (Proceedings before Tribunal: decision and supervisory notices, etc.) applies as if in subsection (1) “, as a result of section 388(2),” were omitted.

Information gathering and investigations

2.—(1) Subject to sub-paragraph (2), Part 11 of the Act (information gathering and investigations) applies to the Authority’s functions under these Regulations as it applies to its functions under the Act with the modifications set out in sub-paragraphs (3) to (16).

(2) Sections 165A to 165C**(4)**, 169A**(5)** and 173 do not apply.

(3) References to an authorised person are to be treated as references to a payment service provider.

(4) References to a regulator (other than to an overseas regulator) are to be treated as references to the Authority.

(1) Section 133 was substituted by [S.I. 2010/22](#) and subsequently amended by section 23(1) and (2) of the Financial Services Act 2012 (c. 21), and section 17 of, and paragraph 83 of Part 3 of Schedule 9 to, the Crime and Courts Act 2013 (c. 22) and by [S.I. 2013/1388](#) and [S.I. 2014/3329](#).

(2) Section 133B was substituted by [S.I. 2010/22](#) and subsequently amended by section 23(1) and (4) of the Financial Services Act 2012.

(3) Section 133A was substituted by [S.I. 2010/22](#) and subsequently amended by section 23(1) and (3) of the Financial Services Act 2012.

(4) Section 165A was inserted by section 18(1) and (2) of the Financial Services Act 2010 (c.28) and subsequently amended by section 41 of, and paragraph 2 of Part 1 of Schedule 12 to, the Financial Services Act 2012. Section 165B was inserted by section 18(1) and (2) of the Financial Services Act 2010 and subsequently amended by section 41 of, and paragraph 3 of Part 1 of Schedule 12 to, the Financial Services Act 2012. Section 165C was inserted by section 18(1) and (2) of the Financial Services Act 2010 and subsequently amended by section 41 of, and paragraph 4 of Part 1 of Schedule 12 to, the Financial Services Act 2012.

(5) Section 169A was inserted by section 18(1) and (3) of the Financial Services Act 2010 and subsequently amended by section 41 of, and paragraph 10 of Part 1 of Schedule 12 to, the Financial Services Act 2012.

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(5) Section 165(6) (Authority’s power to require information) applies as if in subsection (7) paragraphs (b), (c) and (d) were omitted.

(6) Section 166(7) (reports by skilled persons) applies as if subsections (10) and (11) were omitted.

(7) Section 166A(8) (appointment of skilled person to collect and update information) applies as if subsection (10) were omitted.

(8) Section 167(9) (appointment of persons to carry out general investigations) applies as if—

(a) references to an investigating authority were references to the Authority;

(b) references to—

(i) a recognised investment exchange; and

(ii) an appointed representative;

were omitted;

(c) in subsection (5) for “regulated activities” there were substituted “payment services”; and

(d) subsections (5A) and (6) were omitted.

(9) Section 168(10) (appointment of persons to carry out investigations in particular cases) applies as if—

(a) references to an investigating authority were references to the Authority;

(b) in subsection (1)—

(i) in paragraph (b) for “191F” to the end, there were substituted “or;”;

(ii) after paragraph (b) there were inserted—

“(c) a person may have contravened any requirement of or imposed under the Payment Accounts Regulations 2015.”; and

(c) subsections (2), (4), (5) and (6) were omitted.

(10) Section 169(11) (investigations etc in support of overseas regulator) applies as if—

(a) references to an overseas regulator were references to a competent authority in a member State other than the United Kingdom designated in accordance with Article 21 of the Payment Accounts Directive;

(b) in subsection (8) for “Part XXIII” there were substituted “sections 348, 349 and 352”; and

(c) subsection (13) were omitted.

(11) Section 170(12) (investigations: general) applies as if—

(a) references to an investigating authority were references to the Authority;

(b) in subsection (1) “or (5)” were omitted;

(6) Section 165 was amended by section 24(1) and (2) of, and by paragraphs 1 and 15 of Part 1 of Schedule 2 to, the Financial Services Act 2010, and by section 41 of, and paragraph 1 of Part 1 of Schedule 12 to, the Financial Services Act 2012, and by [S.I. 2013/1773](#) and [S.I. 2015/575](#).

(7) Section 166 was substituted by section 41 of, and paragraph 5 of Part 1 of Schedule 12 to, the Financial Services Act 2012.

(8) Section 166A was inserted by section 41 of, and paragraph 6 of Part 1 of Schedule 12 to, the Financial Services Act 2012.

(9) Section 167 was amended by section 41 of, and paragraph 7(1), (2) and (3) of Part 1 of Schedule 12 to, the Financial Services Act 2012, and by [S.I. 2007/126](#) and [S.I. 2015/575](#).

(10) Section 168 was amended by section 41 of, and paragraphs 8(1), 8(2)(a) and (b), 8(3)(a) and (b), 8(4)(a)-(g), 8(5) and 8(6) of Part 1 of Schedule 12 to, the Financial Services Act 2012, by section 47 of, and paragraph 1 and 11 of Schedule 3 to, the Pension Schemes Act 2015 (c.8), and by section 62 of, and paragraph 33 of Part 7 of Schedule 7 to, the Counter-Terrorism Act 2008 (c. 28), and by section 24(1) and (2) of, and paragraphs 1 and 16(1), (2) and (3) of Part 1 of Schedule 2 to, the Financial Services Act 2010, and by [S.I. 2007/126](#), [S.I. 2012/2554](#) and [S.I. 2013/1773](#).

(11) Section 169 was amended by section 41 of, and paragraph 9(1), (2) and (6) of Part 1 of Schedule 12 to, the Financial Services Act 2012.

(12) Section 170 was amended by section 41 of, and paragraph 10 of Part 1 of Schedule 12 to, the Financial Services Act 2012.

- (c) in subsection (3)(a) “or (4)” were omitted;
 - (d) subsection (3)(b) were omitted; and
 - (e) subsection (10) were omitted.
- (12) Section 171(13) (powers of persons appointed under section 167) applies as if subsections (3A) and (7) were omitted.
- (13) Section 172 (additional power of persons appointed as a result of section 168(1) or (4)) applies as if in subsection (4) “or (4)” were omitted.
- (14) Section 174(14) (admissibility of statements made to investigators) applies as if—
- (a) in subsection (2)—
 - (i) “or in proceedings in relation to action to be taken against that person under section 123”; and
 - (ii) “or (as the case may be) a regulator”;were omitted;
 - (b) in subsection (3)(a) “177(4) or” were omitted;
 - (c) in subsection (4) “or (5)” were omitted; and
 - (d) in subsection (5) “, 173” were omitted.
- (15) Section 175(15) (information and documents: supplemental provisions) applies as if in subsection (8) “or (5)” were omitted.
- (16) Section 176(16) (entry of premises under a warrant) applies as if—
- (a) in subsection (1) “the Secretary of State,” were omitted;
 - (b) in subsection (3)(a) “or an appointed representative” were omitted;
 - (c) in subsection (10) “or (5)” were omitted;
 - (d) in subsection (11)(a) for “87C” to “169A” there were substituted “165”; and
 - (e) in subsection (11)(b) “, 173” were omitted.

Restriction on disclosure of information

3.—(1) Sections 348(17) (restrictions on disclosure of confidential information by FCA, PRA etc), 349(18) (exceptions from section 348) and 352 (offences) of the Act apply to information received in connection with the Authority’s functions under these Regulations as they apply in relation to information received in connection with the Authority’s functions under the Act with the following modifications.

- (2) Section 348 applies as if—
- (a) in subsection (3)(a) for “this Act” there were substituted “the Payment Accounts Regulations 2015”;
 - (b) in subsection (5)—

(13) Section 171 was amended by [S.I. 2007/126](#).

(14) Section 174 was amended by section 41 of, and paragraph 12 of Part 1 of Schedule 12 to, the Financial Services Act 2012.

(15) Section 175 was amended by section 41 of, and paragraph 13 of Part 1 of Schedule 12 to, the Financial Services Act 2012.

(16) Section 176 was amended by section 41 of, and paragraph 14 of Part 1 of Schedule 12 to, the Financial Services Act 2012, and by section 24(1) and (2) of, and paragraphs 1 and 17 of Part 1 of Schedule 2 to, the Financial Services Act 2010, and by [S.I. 2005/1433](#).

(17) Section 348 was amended by section 24(1) and (2) of, and paragraphs 1 and 26 of Part 1 of Schedule 2 to, the Financial Services Act 2010, and by section 41 of, and paragraph 18 of Part 2 of Schedule 12 to, the Financial Services Act 2012, and by section 129 of, and paragraph 5 of Part 1 of Schedule 8 to, the Financial Services (Banking Reform) Act 2013.

(18) Section 349 was amended by section 41 of, and paragraph 19(1) to (4) of Part 2 of Schedule 12 to, the Financial Services Act 2012, and by section 964(1) and (4) of the Companies Act 2006 (c.46), and by [S.I. 2006/1183](#) and [S.I. 2007/1093](#).

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- (i) paragraphs (aa) and (c) were omitted;
- (ii) in paragraph (e) for “paragraphs (a) to (c)” there were substituted “paragraph (a)”;
- (iii) in paragraph (ea) for “those paragraphs” there were substituted “that paragraph”;
- (iv) paragraph (f) were omitted;
- (c) subsection (6) were omitted.
- (3) Section 349 applies as if subsections (3A) and (3B) were omitted.
- (4) Section 352 applies as if—
 - (a) in subsection (1) “or 350(5)” were omitted;
 - (b) subsection (4) were omitted;
 - (c) in subsection (5) “or (4)” were omitted;
 - (d) in subsection (6)(a) “or that it had been disclosed in accordance with section 350” were omitted.

Warning notices and decision notices

4.—(1) Subject to sub-paragraph (2), Part 26 of the Act (notices) applies to notices given by the Authority under these Regulations as it applies to notices given by the Authority under the Act with the following modifications.

- (2) Section 391A(**19**) does not apply.
- (3) Section 387(**20**) (warning notices) applies as if subsections (1A) and (3A) were omitted.
- (4) Section 388(**21**) (decision notices) applies as if subsections (1A) and (2) were omitted.
- (5) Section 390(**22**) (final notices) applies as if—
 - (a) subsections (6) and (10) were omitted; and
 - (b) in subsection (8) “or (6)(c)” were omitted.
- (6) Section 391(**23**) (publication) applies as if—
 - (a) for subsection (1ZB) there were substituted—
 - “(1ZB) A warning notice falls within this subsection if it is given under regulation 36 of the Payment Accounts Regulations 2015.”; and
 - (b) subsections (4A), (5A), (6A), (7A), (7B), (8A) and (11) were omitted.
 - (7) Section 392(**24**) (application of sections 393 and 394) applies as if for paragraphs (a) and (b) there were substituted—
 - “warning noticed and decision notices given in accordance with regulation 36 of the Payment Accounts Regulations 2015.”.

(19) Section 391A was inserted by [S.I. 2013/3115](#).

(20) Section 387 was amended by section 37(1) of, and paragraph 1 of Part 1 and paragraph 26 of Part 6 of Schedule 9 to, the Financial Services Act 2012.

(21) Section 388 was amended by section 37(1) of, and paragraph 1 of Part 1 and paragraph 27 of Part 6 of Schedule 9 to, the Financial Services Act 2012.

(22) Section 390 was amended by section 37(1) of, and paragraph 1 of Part 1 and paragraph 29 (1) to (5) of Part 6 of Schedule 9 to, the Financial Services Act 2012, and by [S.I. 2010/22](#).

(23) Section 391 was amended by sections 24(2) and 37(1) of, and paragraph 1 of Part 1 and paragraph 30 (1) to (8) of Part 6 of Schedule 9 to, the Financial Services Act 2012, and by sections 13(1) and (3) and 24(1) and (2) of, and paragraphs 1 and 28 of Part 1 of Schedule 2 to, the Financial Services Act 2010 and by [S.I. 2012/916](#), [S.I. 2013/1388](#), [S.I. 2013/3115](#), and [S.I. 2014/2879](#).

(24) Section 392 was amended by sections 18(1) and (5), section 35, section 37(1) and section 42 of, and paragraphs 1 and 37 of Schedule 8, and paragraph 1 of Part 1 and paragraph 31 of Part 6 of Schedule 9 and paragraph 8 of Schedule 13 to, the Financial Services Act 2012, and by section 24(1) and (2) of, and paragraphs 1 and 29 of Part 1 of Schedule 2 to, the Financial Services Act 2010, and by [S.I. 2007/126](#) and [S.I. 2013/1388](#).

- (8) Section 395(25) (the FCA’s and PRA’s procedures) applies as if—
- (a) subsection (1)(b)(ii) were omitted;
 - (b) in subsection (9) “other than a warning notice or decision notice relating to a decision of the PRA that is required by a decision of the FCA of the kind mentioned in subsection 1(b)(ii)” were omitted;
 - (c) subsection (9A) were omitted; and
 - (d) in subsection (13) for “in accordance with” to the end there were substituted “under regulation 31 of the Payment Accounts Regulations 2015.”.

Misleading the Authority

5. Section 398(26) of the Act (misleading FCA or PRA: residual cases) applies in respect of requirements imposed by or under these Regulations, as it applies in respect of requirements imposed by or under the Act.

Institution of proceedings

6. Section 401(27) of the Act (proceedings for offences) applies in respect of offences under these Regulations as it applies in respect of offences under the Act, but as if—
- (a) references to the appropriate regulator were references to the Authority; and
 - (b) subsections (3A) and (3B) were omitted.

Limitation on power to require documents

7. Section 413 of the Act (protected items) applies for the purposes of these Regulations as it applies for the purposes of the Act.

PART 2

Application and modification of secondary legislation

The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001

8. The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001(28) apply to any notice given by or to the Authority under these Regulations as they apply to relevant documents within the meaning of regulation 1(2)(29) of those Regulations with the following modifications—
- (a) references to an investigating authority apply as if they are references to the Authority; and
 - (b) regulation 6A is omitted.

(25) Section 395 was amended by section 17(1) and (3), section 18(1) and (6), section 19(2), section 24(3) and section 37(1) of, and paragraph 1 of Part 1 and paragraph 34 (1) to (15) of Part 6 of Schedule 9 to, the Financial Services Act 2012 and by [S.I. 2005/381](#), [S.I. 2005/1433](#), [S.I. 2007/1973](#), [S.I. 2009/534](#) and [S.I. 2013/1388](#).

(26) Section 398 was amended by section 37(1) of, and paragraph 1 of Part 1 and paragraph 36(1) and (3) of Part 7 of Schedule 9 to, the Financial Services Act 2012, and by [S.I. 2013/1773](#).

(27) Section 401 was amended by section 37(1) of, and paragraph 1 of Part 1 and paragraph 38 of Part 7 of Schedule 9 to, the Financial Services Act 2012 and by [S.I. 2013/1881](#).

(28) [S.I. 2001/1420](#).

(29) Regulation 1(2) was amended by [S.I. 2010/1193](#), [S.I. 2013/472](#) and [S.I. 2014/549](#).

The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

9. The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001(30) apply with the following modifications—

(a) in regulation 2(31)—

(i) after the definition of “overseas regulatory authority” insert—

““Payment Accounts Directive” means Directive 2014/92/EU of the European Parliament and of the Council of 23rd July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features;

“payment accounts directive information” means confidential information received by the Authority in the course of discharging its functions as the competent authority under the Payment Accounts Directive;”;

(ii) in the definition of “single market restrictions”, after paragraph (m) add—

“(n) Articles 21(2) and 22 of the Payment Accounts Directive;”;

(b) in regulation 8(32)—

(i) at the end of paragraph (c) omit “and”; and

(ii) at the of paragraph (d) insert—

“; and

(e) payment accounts directive information.”; and

(c) in regulation 11(33), after paragraph (g) insert—

“(h) payment accounts directive information.”.

(30) S.I. 2001/2188.

(31) Regulation 2 was amended by S.I. 2003/693, S.I. 2003/2066, S.I. 2004/1862, S.I. 2004/3379, S.I. 2006/3413, S.I. 2010/2628, S.I. 2012/916, S.I. 2012/2554, S.I. 2013/472, S.I. 2013/504, S.I. 2013/1162, S.I. 2013/1773, S.I. 2013/3115, S.I. 2014/3348, S.I. 2015/575, and S.I. 2015/910.

(32) Regulation 8 was substituted by S.I. 2006/3413 and subsequently amended by S.I. 2012/916, S.I. 2013/504 and S.I. 2014/3348.

(33) Regulation 11 was amended by S.I. 2003/2066, S.I. 2006/3413, S.I. 2011/1613, S.I. 2012/916, S.I. 2013/504 and S.I. 2014/3348.