

---

STATUTORY INSTRUMENTS

---

**2016 No. 715**

The Financial Services and Markets Act  
2000 (Transparency of Securities Financing  
Transactions and of Reuse) Regulations 2016

PART 3

Administration and enforcement

CHAPTER 3

Supervisory measures

**Guidance**

**8.—(1)** The FCA may give guidance consisting of such information and advice as it considers appropriate with respect to—

- (a) an SFTR requirement;
  - (b) any matter relating to the functions of the FCA under these Regulations; or
  - (c) any other matter about which it appears to the FCA to be desirable to give information or advice in connection with these Regulations.
- (2) The FCA may—
- (a) publish its guidance;
  - (b) offer copies of its published guidance for sale at a reasonable price; or
  - (c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.

**Directions**

**9.—(1)** The FCA may direct a non-authorised counterparty to take, or refrain from taking, specified action where—

- (a) it appears to the FCA that the non-authorised counterparty has contravened an SFTR requirement; and
  - (b) the FCA considers the action necessary to—
    - (i) end any conduct which is contributing to a continuing contravention of an SFTR requirement; or
    - (ii) prevent a further contravention of an SFTR requirement.
- (2) The direction may specify the time for compliance with the direction.

(3) The direction is enforceable, on the application of the FCA, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988(1).

(4) The FCA may revoke a direction given under this regulation.

#### **Directions: procedure**

**10.**—(1) Before giving a direction under regulation 9 the FCA must give written notice of its intention to do so to the non-authorised counterparty concerned.

(2) A notice under paragraph (1) must—

- (a) state why the FCA intends to give the direction; and
- (b) state a period of time during which representations may be made to the FCA about the proposed direction.

(3) Before the end of the period for making representations, the non-authorised counterparty may make representations to the FCA.

(4) The period for making representations may, in any particular case, be extended by the FCA.

(5) In deciding whether to give a direction, the FCA must have regard to any representations made in accordance with paragraph (3).

(6) When the FCA has decided whether to give a direction under regulation 9, it must give the non-authorised counterparty written notice of its decision.

(7) If the FCA considers it necessary to do so, it may give a direction under regulation 9—

- (a) without following the procedure set out in this regulation; or
- (b) if the FCA has begun to follow that procedure, regardless of whether the period for making representations has expired.

(8) If the FCA gives a direction in reliance on paragraph (7) it must, within a reasonable time of giving the direction, give the non-authorised counterparty a statement of its reasons—

- (a) for giving the direction; and
- (b) for relying on paragraph (7).

(9) If the FCA gives a non-authorised counterparty a direction under regulation 9, the non-authorised counterparty may refer the matter to the Tribunal.

(10) If the FCA has, in relation to a particular matter, followed the procedure set out in paragraphs (1) to (5), it need not follow it again if, in relation to that matter, it decides to take action other than that specified in its notice under paragraph (1).