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## STATUTORY INSTRUMENTS

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# 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 4

#### Measures in relation to individuals

#### Temporary prohibition orders

**11.**—(1) The relevant regulator may make a temporary prohibition order where that regulator considers that a person (“A”) has been knowingly concerned in a contravention by a financial or non-financial counterparty of an SFTR requirement.

(2) A temporary prohibition order is an order prohibiting A, for the period specified in the order, from performing functions which require A to be responsible for managing one or more aspects of the affairs of—

- (a) a specified financial or non-financial counterparty; or
- (b) a financial or non-financial counterparty of a specified description.

(3) A prohibition imposed under this regulation may only be imposed for a limited period of time.

(4) A financial or non-financial counterparty must take reasonable care to ensure that none of the financial or non-financial counterparty's functions is performed by a person who is prohibited from performing such a function by a temporary prohibition order.

(5) The relevant regulator may vary or revoke a temporary prohibition order on the application of A or otherwise.

(6) Where a relevant regulator who has imposed a temporary prohibition order on A considers that A has contravened that order it may—

- (a) publish a statement to that effect; or
- (b) impose on A a penalty, in respect of the contravention, of such amount as it considers appropriate.

(7) In this regulation “the relevant regulator” means—

- (a) where the counterparty referred to in paragraph (1) is a recognised central counterparty [<sup>F1</sup>or a recognised CSD], the Bank;
- (b) where the counterparty referred to in paragraph (1) is any other financial or non-financial counterparty, the FCA.

**Changes to legislation:** The Financial Services and Markets Act 2000 (Transparency of Securities Financing Transactions and of Reuse) Regulations 2016, CHAPTER 4 is up to date with all changes known to be in force on or before 25 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**F1** Words in [reg. 11\(7\)\(a\)](#) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), [reg. 1](#), [Sch. para. 43\(5\)](#) (with [regs. 7\(4\), 9\(1\)](#))

### Temporary prohibition orders: procedure

**12.**—(1) Section 57<sup>M1</sup> (prohibition orders: procedure and right to refer to Tribunal) of the Act applies to a temporary prohibition order made under regulation 11 as it applies to a prohibition order made under section 56<sup>M2</sup> of the Act (prohibition orders), but with—

- (a) the references to a regulator being read to refer to—
  - (i) the Bank, where the counterparty referred to in paragraph 11(1) is a recognised central counterparty [<sup>F2</sup>or a recognised CSD]; or
  - (ii) the FCA, where the counterparty referred to in paragraph 11(1) is any other financial or non-financial counterparty; and
- (b) subsections (6), (7) and (8) of section 57 omitted.

(2) Section 58<sup>M3</sup> of the Act (applications relating to prohibitions: procedure and right to refer to Tribunal) applies to an application made under regulation 11(5) to the relevant regulator for the variation or revocation of a temporary prohibition order made under regulation 11 as it applies to an application for the variation or revocation of a prohibition order made to the appropriate regulator under section 56 of the Act.

**F2** Words in [reg. 12\(1\)\(a\)\(i\)](#) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), [reg. 1](#), [Sch. para. 43\(6\)](#) (with [regs. 7\(4\), 9\(1\)](#))

#### Marginal Citations

- M1** Section 57 was amended by the Financial Services Act 2012, section 13.
- M2** Section 56 was amended by the Financial Services Act 2012, section 13.
- M3** Section 58 was amended by the Financial Services Act 2012, Schedule 5, paragraph 2.

### Contravention of a temporary prohibition order by a recognised body

**13.** Section 312E (public censure), 312F (financial penalties), 312G (proposal to take disciplinary measures), 312H (decision notice) and 312I<sup>M4</sup> (publication) of the Act apply in relation to the contravention by a recognised body of a requirement under regulation 11(4) as they apply in relation to the contravention by a recognised body of a relevant requirement, but with—

- (a) references to the appropriate regulator being read to refer to—
  - (i) the Bank, where the recognised body is a recognised central counterparty [<sup>F3</sup>or a recognised CSD];
  - (ii) the FCA, where the recognised body is any other financial or non-financial counterparty;
- (b) in sub-paragraph (b) of section 312I, the reference to section 393(4) being read to refer to regulation 19.

**F3** Words in [reg. 13\(a\)\(i\)](#) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), [reg. 1](#), [Sch. para. 43\(7\)](#) (with [regs. 7\(4\), 9\(1\)](#))

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**Marginal Citations**

**M4** Section 312E, 312F, 312G, 312H and 312I were inserted by the Financial Services Act 2012, section 33.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)