
STATUTORY INSTRUMENTS

2017 No. 701

**The Financial Services and Markets Act 2000
(Markets in Financial Instruments) Regulations 2017**

PART 5

**Removal of persons from the management board of an investment
firm, credit institution, or recognised investment exchange**

FCA and PRA power to remove a person from a management board

38.—(1) The appropriate regulator may require an investment firm, credit institution, or recognised investment exchange to remove a person from the management board if the regulator considers it necessary for the purpose of the exercise by it of functions under the markets in financial instruments directive or the markets in financial instruments regulation.

(2) For the purposes of this Part “the appropriate regulator” means—

- (a) in a case where an investment firm or credit institution is a PRA-authorised person, the FCA or PRA;
- (b) in any other case, the FCA.

(3) The FCA must consult the PRA before requiring an investment firm or credit institution which is a PRA-authorised person to remove a person from the management board under paragraph (1).

(4) In this regulation “PRA-authorised person” has the same meaning as in section 2B(5) (the PRA’s general objective) of the Act.

Right to refer matters to the Tribunal

39. If the appropriate regulator requires an investment firm, credit institution, or recognised investment exchange to remove a person from the management board under regulation 38—

- (a) the firm, credit institution, or exchange may refer the matter to the Tribunal; and
- (b) the person to whom the requirement relates may refer the matter to the Tribunal.

Removal of persons from management boards: procedure

40.—(1) A requirement under regulation 38 may be expressed to come into effect—

- (a) immediately; or
- (b) on a specified date.

(2) The time or date on which a requirement under regulation 38 is expressed to come into effect under paragraph (1) must be a time or date that the appropriate regulator considers it necessary for the requirement to come into effect, having regard to the grounds for imposing the requirement.

(3) If the appropriate regulator proposes to impose a requirement on an investment firm, credit institution, or recognised investment exchange, or imposes such a requirement with immediate effect, it must give written notice—

- (a) to that investment firm, credit institution, or recognised investment exchange, and
- (b) to each person on the management board of the investment firm, credit institution, or recognised investment exchange to whom the requirement relates (“interested party”).

(4) A notice given under paragraph (3) must—

- (a) give details of the requirement;
- (b) identify each interested party;
- (c) give the regulator’s reasons for imposing the requirement—
 - (i) in the case of a notice given to the investment firm, credit institution, or recognised investment exchange, in relation to the interested party;
 - (ii) in the case of a notice given to the interested party, in relation to that interested party;
- (d) inform the investment firm, credit institution, or recognised investment exchange and the interested party that each of them may make representations to the regulator within such period as may be specified in the notice (whether or not the matter has been referred the matter to the Tribunal);
- (e) state when the requirement takes effect; and
- (f) inform the investment firm, credit institution, or recognised investment exchange and the interested party of their right to refer the matter to the Tribunal.

(5) The regulator may extend the period allowed by the notice given under paragraph (3) for making representations.

(6) If, having considered any representations made by a person to whom notice has been given under paragraph (3) (the “original notice”), the regulator decides—

- (a) not to impose the requirement;
- (b) to impose the requirement; or
- (c) not to rescind the imposition of any such requirement which has already taken effect,

the regulator must give written notice to the person to whom the original notice was given.

(7) A notice under paragraph (6)(b) or (c) must inform the person to whom it is given of that person’s right to refer the matter to the Tribunal and give an indication of the procedure on such a reference.