
STATUTORY INSTRUMENTS

2018 No. 1288

The Securitisation Regulations 2018

PART 1

Introductory provisions

Citation and commencement

1. These Regulations may be cited as the Securitisation Regulations 2018 and come into force on 1st January 2019.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Financial Services and Markets Act 2000 ^{M1};

“appropriate regulator” means:

(a) the FCA in the case of:

(i) a contravention of a relevant requirement by any person for which it is the competent authority under these Regulations or under the EU Securitisation Regulation 2017 ^{M2}; or

(ii) a contravention by any person of a relevant requirement imposed by the FCA on that person under these Regulations;

(b) the PRA in the case of:

(i) a contravention of a relevant requirement by any person for which it is the competent authority under these Regulations or under the EU Securitisation Regulation 2017; or

(ii) a contravention by any person of a relevant requirement imposed by the PRA on that person under these Regulations;

“authorised person” has the meaning given in section 31(2) (authorised persons) of the Act;

“established in the United Kingdom” means constituted under the law of a part of the United Kingdom with a head office, and if there is a registered office, that office, in the United Kingdom and where at least part of the securitisation business of the person so constituted is carried on in the United Kingdom;

“the EU Securitisation Regulation 2017” means Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives [2009/65/EC](#), [2009/138/EC](#) and [2011/61/EU](#) and Regulations [\(EC\) No 1060/2009](#) and [\(EU\) No 648/2012](#);

“the FCA” means the Financial Conduct Authority;

“FCA-authorized person” means an authorised person who is not a PRA-authorized person;

“original lender” has the meaning given in Article 2(20) of the EU Securitisation Regulation 2017;

“originator” has the meaning given in Article 2(3) of the EU Securitisation Regulation 2017;

“the PRA” means the Prudential Regulation Authority;

“PRA-authorized person” has the meaning given in section 2B(5) ^{M3} (the PRA's general objective) of the Act ;

“the register” is the register of third party verifiers provided for in regulation 18 of these Regulations;

“relevant requirement” means a requirement imposed by or under these Regulations, by or under the Act as applied by these Regulations or by or under the EU Securitisation Regulation 2017;

“securitisation business” means activities in relation to a securitisation as defined in Article 2(1) of the EU Securitisation Regulation 2017, when carried out as a regular occupation or business activity;

“SRUP” or “securitisation regulation unauthorised person” is a person who is not an authorised person and is:

- (a) an original lender;
- (b) an originator;
- (c) a person established in the United Kingdom who establishes a SSPE in a [F¹country or territory outside the United Kingdom];
- (d) a person engaged in the conduct of selling a securitisation position, within the meaning given in Article 2(19) of the EU Securitisation Regulation 2017, to a retail client located in the United Kingdom;
- (e) a sponsor;
- (f) a SSPE; or
- (g) a third party verifier;

“securitisation special purpose entity” or “SSPE” has the meaning given in Article 2(2) of the EU Securitisation Regulation 2017;

“sponsor” has the meaning given in Article 2(5) of the EU Securitisation Regulation 2017;

“STS” has the meaning given in Article 18 of the EU Securitisation Regulation 2017;

“third party verification service” means the service described in Article 27(2) of the EU Securitisation Regulation 2017;

“third party verifier” means a third party authorised by the FCA as provided in Article 28 of the EU Securitisation Regulation 2017;

“the Tribunal” means the Upper Tribunal.

(2) Except as provided by paragraph (1)—

- (a) any expression used in these Regulations which is defined for the purposes of the EU Securitisation Regulation 2017 has the meaning which it has in the EU Securitisation Regulation 2017; and
- (b) any other expression used in these Regulations which is defined for the purposes of the Act has the meaning given by the Act.

Textual Amendments

- F1** Words in [reg. 2](#) substituted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(3), [Sch. 2 para. 42](#) (with s. 2(3)); S.I. 2023/779, reg. 4(zz)(iii)

Marginal Citations

- M1** 2000 c. 8.
M2 OJ L 347, 28.12.2017, p.35.
M3 [Section 2B](#) was substituted by the section 6(1) of the [Financial Services Act 2012 \(c.21\)](#).

[^{F2}References to technical standards]

3. In these Regulations a reference to an Article of the EU Securitisation Regulation 2017 includes a reference to any [^{F3}technical standards originally made or adopted under that Article which are retained direct EU legislation and any technical standards made under that Article on or after IP completion day].

Textual Amendments

- F2** [Reg. 3](#) heading substituted (31.12.2020) by [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), [58\(2\)\(a\)](#) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F3 Words in [reg. 3](#) substituted (31.12.2020) by [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), [58\(2\)\(b\)](#) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1); as amended by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 35\(i\)](#)

Designation of competent authorities

4.—(1) Subject to paragraph (2), the FCA is designated as the competent authority responsible for—

- (a) the supervision of compliance of persons engaged in the conduct of selling a securitisation position to a retail client located in the United Kingdom with obligations set out in Article 3 of the EU Securitisation Regulation 2017;
- (b) the supervision of compliance of persons established in the United Kingdom with the obligations set out in Article 4 of the EU Securitisation Regulation 2017 when establishing SSPEs in a [^{F4}country or territory outside the United Kingdom];
- (c) the supervision of compliance of originators, original lenders and SSPEs established in the United Kingdom [^{F5}, other than originators, original lenders and SSPEs to which Article 29(3A) of the EU Securitisation Regulation 2017 applies,] with the obligations set out in Articles 6, 7, 8 and 9 of the EU Securitisation Regulation 2017;
- (d) the supervision of compliance of originators, sponsors and SSPEs established in the United Kingdom with the obligations set out in Articles 18 to 27 of the EU Securitisation Regulation 2017 and the supervision of compliance of originators and sponsors established in the United Kingdom with the obligation set out in the last sentence of paragraph 6 of Article 29 of the EU Securitisation Regulation 2017; and
- (e) the authorisation of third party verifiers established in the United Kingdom provided for in Article 28 of the EU Securitisation Regulation 2017 and the supervision of their compliance with the obligations set out in that Article.

(2) The PRA is designated as the competent authority responsible for the supervision of compliance by PRA-authorized persons established in the United Kingdom [^{F6}, other than originators, original lenders and SSPEs to which Article 29(3A) of the EU Securitisation Regulation 2017 applies,] with the obligations set out in Articles 6, 7, 8 and 9 of the EU Securitisation Regulation 2017.

Textual Amendments

- F4** Words in reg. 4(1)(b) substituted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\), s. 86\(3\), Sch. 2 para. 43](#) (with s. 2(3)); S.I. 2023/779, reg. 4(zz)(iii)
- F5** Words in reg. 4(1)(c) substituted (31.12.2020) by [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), **58(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in reg. 4(2) substituted (31.12.2020) by [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), **58(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

PART 2

Disciplinary measures and procedures

Temporary prohibition relating to management functions

5.—(1) If the appropriate regulator considers that an individual has contravened or has been knowingly concerned in the contravention of a relevant requirement, the appropriate regulator may impose a temporary prohibition on that individual from holding an office or position involving responsibility for taking decisions about the management of an originator, sponsor or SSPE.

(2) A temporary prohibition imposed under paragraph (1) expires at the end of such period as the appropriate regulator may specify, but the imposition of a temporary prohibition does not affect the appropriate regulator's power to impose a further temporary prohibition under paragraph (1).

(3) A temporary prohibition under paragraph (1) may relate to the management of—

- (a) a named originator, sponsor or SSPE;
- (b) an originator, sponsor or SSPE of a specified description; or
- (c) any originator, sponsor or SSPE.

(4) The appropriate regulator may revoke a temporary prohibition imposed by it under this regulation, or vary it so as to reduce the period for which it has effect.

Temporary prohibition relating to management functions: obligations on originator, sponsor or SSPE

6.—(1) An originator, sponsor or SSPE must take reasonable care to ensure that no individual holds an office or position involving responsibility for taking decisions about the management of that entity in contravention of a temporary prohibition imposed under regulation 5(1).

(2) Except in the cases given in paragraph (3), if an originator, sponsor or SSPE fails to comply with paragraph (1), it is taken to have contravened a requirement imposed by the FCA under these Regulations. If an originator, sponsor or SSPE fails to comply with paragraph (1) and—

- (a) it is a PRA authorised person or a SRUP; and
- (b) the temporary prohibition has been imposed by the PRA;

the originator, sponsor or SSPE is taken to have contravened a requirement imposed by the PRA under these Regulations.

Public censure

7.—(1) If the appropriate regulator considers that—

- (a) a SRUP has contravened a relevant requirement;
- (b) a member of the management body of a SRUP was knowingly concerned in the contravention by the SRUP of a relevant requirement; or
- (c) another member of the senior management of a SRUP was knowingly concerned in the contravention by the SRUP of a relevant requirement;

the appropriate regulator may publish a statement to that effect.

(2) If the appropriate regulator considers that an individual on whom a temporary prohibition has been imposed under regulation 5 has breached the prohibition, the appropriate regulator may publish a statement to that effect.

Financial penalties

8.—(1) If the appropriate regulator considers that—

- (a) a SRUP has contravened a relevant requirement;
- (b) a member of the management body of a SRUP was knowingly concerned in the contravention by the SRUP of a relevant requirement; or
- (c) another member of the senior management of a SRUP was knowingly concerned in the contravention by the SRUP of a relevant requirement;

the appropriate regulator may impose a penalty of such amount as it considers appropriate.

(2) If the appropriate regulator considers that an individual on whom a temporary prohibition has been imposed under regulation 5 has breached the prohibition, the appropriate regulator may impose a penalty of such amount as it considers appropriate on that individual.

(3) A penalty imposed under this regulation is payable to the appropriate regulator and may be recovered as a debt owed to the appropriate regulator.

Statements of policy

9.—(1) The FCA and the PRA must prepare and issue a statement of policy with respect to their exercise of the following functions as appropriate regulator—

- (a) the imposition of a prohibition under regulation 5 (temporary prohibition relating to management functions);
- (b) the period of a prohibition under that regulation;
- (c) the imposition of penalties under regulation 8 (financial penalties); and
- (d) the amount of penalties under that regulation.

[^{F7}(2) The policy must require the appropriate regulator, in determining the amount of a penalty to be imposed on any person, to take account of all relevant circumstances including, where appropriate—

- (a) the impact, gravity and duration of the contravention for which the penalty is to be imposed;
- (b) the extent of the person's responsibility for the contravention;
- (c) the financial position of the person;

- (d) the amount of profit gained or of loss avoided as a result of the contravention, so far as this can be determined;
 - (e) the amount of loss sustained as a result of the contravention by any other person, so far as this can be determined;
 - (f) the level of co-operation by the person with the appropriate regulator (without prejudice to the need to ensure that the person accounts for or makes good any profit gained or loss avoided as a result of the contravention);
 - (g) any previous contravention by the person for which a penalty was, or could have been, imposed under regulation 8.]
- (3) The FCA or the PRA may at any time alter or replace a statement issued by it under this regulation.
- (4) If a statement issued under this regulation is altered or replaced by the FCA or the PRA, the FCA or the PRA must issue the altered or replacement statement.
- (5) The FCA or the PRA must, without delay, give the Treasury a copy of any statement which it issues under this regulation.
- (6) A statement issued under this regulation by the FCA or the PRA must be published by the FCA or the PRA in the way appearing to the FCA or the PRA to be best calculated to bring it to the attention of the public.
- (7) The FCA or the PRA may charge a reasonable fee for providing a person with a copy of the statement.
- (8) In exercising, or deciding whether to exercise, its power under regulation 5 (temporary prohibition relating to management functions) or under regulation 8 (financial penalties) in the case of any particular contravention, the appropriate regulator must have regard to any statement of policy published by it under this regulation and in force at the time when the contravention in question occurred.

Textual Amendments

- F7** Reg. 9(2) substituted (31.12.2020) by [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/660), regs. 1(2), **58(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Statements of policy: procedure

- 10.**—(1) Before the appropriate regulator issues a statement under regulation 9 (statements of policy), the appropriate regulator must publish a draft of the proposed statement in the way appearing to the appropriate regulator to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by a notice that representations about the proposal may be made to the regulator within a specified time.
- (3) Before issuing the proposed statement the appropriate regulator must have regard to any representations made to it in accordance with paragraph (2).
- (4) If the appropriate regulator issues the proposed statement it must publish an account, in general terms, of—
- (a) the representations made to it in accordance with paragraph (2); and
 - (b) its response to them.
- (5) If the statement differs from the draft published under paragraph (1) in a way which is, in the opinion of the appropriate regulator, significant, the appropriate regulator must (in addition to complying with paragraph (4)) publish details of the difference.

(6) The appropriate regulator may charge a reasonable fee for providing a person with a copy of a draft published by it under paragraph (1).

(7) This regulation also applies to a proposal to alter or replace a statement.

Restriction on penalties

11.—(1) A person who is convicted of an offence under section 398 of the Act^{M4} as applied by paragraph 8 of Schedule 1 of these Regulations is not subsequently liable to a penalty under regulation 8 (financial penalties) in respect of the same acts or omissions that constituted the offence.

(2) A person on whom a penalty has been imposed under regulation 8 (financial penalties) is not subsequently liable for an offence under section 398 of the Act as applied by these Regulations in respect of the same contravention that led to the imposition of the penalty.

Marginal Citations

M4 Section 398 was amended by paragraph 36 of Schedule 9 to the [Financial Services Act 2012 \(c.21\)](#) and [S.I. 2013/1773](#). There are other amendments but none is relevant.

PART 3

CHAPTER 1

Third party verifiers

Application for authorisation to provide a third party verification service

12.—(1) An application for authorisation to provide a third party verification service as provided for in Article 28 of the EU Securitisation Regulation 2017 must —

- (a) be made in such manner as the FCA may direct; and
- (b) contain, or be accompanied by, such information as may be required under Article 28 of the EU Securitisation Regulation 2017 and such other information as the FCA may reasonably require.

(2) At any time after the application is received and before it is determined, the FCA may require the applicant to provide it with such further information as it reasonably considers necessary to enable it to determine the application.

(3) The FCA may give different directions, and may impose different requirements, in relation to different applications or categories of application.

(4) The FCA may require an applicant to provide information which the applicant is required to provide to it under these regulations in such form, or to verify it in such a way, as the FCA may direct.

Determination of an application for authorisation to provide a third party verification service

13.—(1) The FCA must determine an application for authorisation to provide a third party verification service as provided for in Article 28 of the EU Securitisation Regulation 2017 before the end of the period of six months beginning with the date on which it received the completed application.

(2) The FCA may determine an incomplete application if it considers it appropriate to do so, and it must in any event determine such an application within 12 months beginning with the date on which it received the application.

(3) The applicant may withdraw its application, by giving the FCA notice, at any time before the FCA determines it.

(4) If the FCA decides to grant an application it must give the applicant notice of its decision specifying the date on which the authorisation takes effect.

Temporary withdrawal of authorisation to provide a third party verification service

14.—(1) The FCA may decide to withdraw temporarily the authorisation of a third party verifier if it appears to the FCA that —

- (a) the third party verifier is materially non-compliant with Article 28(1) of the EU Securitisation Regulation 2017;
- (b) the third party verifier has failed, during a period of at least 12 months, to provide a third party verification service;
- (c) the third party verifier has obtained the authorisation to provide a third party verification service through false statements or other irregular means;
- (d) the third party verifier has failed to comply with Article 28(2) of the EU Securitisation Regulation 2017; or
- (e) it is desirable to do so to advance one or more of the FCA's operational objectives set out in section 1B(3) of the Act.

(2) The FCA may—

- (a) revoke the temporary withdrawal imposed under paragraph (1); or
- (b) vary the period for which the temporary withdrawal has effect.

Temporary withdrawal of authorisation to provide a third party verification service: procedure

15.—(1) When the FCA exercises its functions under regulation 14, its decision takes effect —

- (a) immediately, if the notice given under paragraph (3) states that that is the case;
- (b) on such other date as may be specified in the notice; or
- (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.

(2) A decision of the FCA made under regulation 14 may be expressed to take effect immediately (or on a specified date) only if the FCA, having regard to the ground on which it is exercising this power, reasonably considers that it is necessary for the decision to take effect immediately (or on that date).

(3) If the FCA proposes to exercise, or exercises, its functions under regulation 14, it must give the third party verifier written notice.

(4) The notice must —

- (a) give details of the temporary withdrawal, or the revocation of the temporary withdrawal, or the variation of the temporary withdrawal, including the period of the temporary withdrawal;
- (b) state the FCA's reasons for the temporary withdrawal, or the revocation of the temporary withdrawal or the variation of the temporary withdrawal;

- (c) inform the third party verifier that they may make representations to the FCA within such period as may be specified in the notice (whether or not they referred the matter to the Tribunal);
 - (d) inform the third party verifier when the temporary withdrawal, or the revocation of the temporary withdrawal or the variation of the temporary withdrawal, is to take effect; and
 - (e) inform the third party verifier of their right to refer the matter to the Tribunal and provide an indication of the procedure for such a reference.
- (5) The FCA may extend the period allowed in the notice given under paragraph (4)(c) for making representations.
- (6) If, having considered any representations made by the third party verifier to whom the notice has been given under paragraph (3), the FCA decides—
- (a) to withdraw temporarily, or revoke or vary the temporary withdrawal of the third party verifier's authorisation, in the way proposed;
 - (b) not to withdraw temporarily, or revoke or vary the temporary withdrawal of the third party verifier's authorisation, in the way proposed;
 - (c) to revoke the temporary withdrawal or variation of the temporary withdrawal which has taken effect; or
 - (d) if the temporary withdrawal or variation of the temporary withdrawal has taken effect, not to revoke the temporary withdrawal or variation of the temporary withdrawal; or
 - (e) to withdraw temporarily or vary the period of a withdrawal in a different way;
- it must give the third party verifier written notice of its decision.
- (7) A notice under paragraph (6)(a), (d) or (e) must inform the third party verifier of their right to refer the matter to the Tribunal and provide an indication of the procedure for such a reference.
- (8) For the purposes of paragraph (1)(c), whether a matter is open to review is to be determined in accordance with section 391(8) of the Act.
- (9) Where the authorisation of a third party verifier is temporarily withdrawn, the FCA must as soon as practicable update the register accordingly.

Cancellation of authorisation to provide a third party verification service on the initiative of the FCA

- 16.—**(1) The FCA may cancel an authorisation to provide a third party verification service if it appears to the FCA that—
- (a) the third party verifier is materially non-compliant with Article 28(1) of the EU Securitisation Regulation 2017;
 - (b) the third party verifier has failed, during a period of at least 12 months, to provide a third party verification service;
 - (c) the third party verifier has obtained the registration to provide third party verification services through false statements or other irregular means;
 - (d) the third party verifier has failed to comply with Article 28(2) of the EU Securitisation Regulation 2017; or
 - (e) it is desirable to do so to advance one or more of the FCA's operational objectives set out in section 1B(3) of the Act.
- (2) Where the period for a reference to the Tribunal has expired without a reference being made, the FCA must as soon as practicable update the register accordingly.

Cancellation of authorisation to provide a third party verification service at request of third party verifier

17.—(1) The FCA may, on the application of a third party verifier, cancel their authorisation to provide a third party verification service.

(2) A request for cancellation of a person's authorisation under this regulation must be made in such a manner as the FCA may direct.

(3) The FCA may refuse an application under this regulation if it appears to it that it is desirable to do so in order to advance any of its operational objectives set out in section 1B(3) of the Act.

(4) An application under paragraph (1) must be determined by the FCA before the end of the period of 6 months beginning with the date on which it received the completed application.

(5) The FCA may determine an incomplete application if it considers it is appropriate to do so, and it must in any event determine such an application within 12 months beginning with the date on which it received the application.

(6) The applicant may withdraw its application, by giving the FCA notice, at any time before the FCA determines it.

(7) If the FCA decides to grant an application, it must give the applicant notice of its decision specifying the date on which the cancellation of the authorisation takes effect, and as soon as practicable update the register accordingly.

Register of third party verifiers

18.—(1) The FCA must maintain a register of all persons it has authorised as third party verifiers as provided for in Article 28 of the EU Securitisation Regulation 2017.

(2) The FCA must—

- (a) publish the register online and make it available for public inspection; and
- (b) update the register on a regular basis.

CHAPTER 2

Warning notices and decision notices

Warning notice

19.—(1) If the appropriate regulator proposes to—

- (a) impose a temporary prohibition under regulation 5 (temporary prohibition relating to management functions);
- (b) publish a statement in respect of a person under regulation 7 (public censure);
- (c) impose a penalty on a person under regulation 8 (financial penalties);
- (d) refuse an application for authorisation to provide a third party verification service under regulation 13 (determination of application for authorisation to provide a third party verification service);
- (e) cancel a person's authorisation to provide a third party verification service under regulation 16 (cancellation of authorisation to provide a third party verification service on the initiative of the FCA); or
- (f) refuse an application to cancel a person's authorisation to provide a third party verification service under regulation 17 (cancellation of authorisation to provide a third party verification service at request of third party verifier);

it must give the person a warning notice.

(2) A warning notice about a proposal to impose a temporary prohibition relating to management functions under regulation 5 must set out the terms of the proposed prohibition.

(3) A warning notice about a proposal to publish a statement under regulation 7 must set out the terms of the statement.

(4) A warning notice about a proposal to impose a penalty under regulation 8 must state the amount of the proposed penalty.

(5) A warning notice must inform the person concerned that the person may make representations to the appropriate regulator within such period as may be specified in the notice (whether or not the person concerned has referred the matter to the Tribunal).

Decision notice

20.—(1) If, having considered any representations made in response to the warning notice, the appropriate regulator decides to—

- (a) impose a temporary prohibition relating to management functions under regulation 5 (temporary prohibition relating to management functions) (whether or not in the terms proposed);
- (b) publish a statement under regulation 7 (public censure) (whether or not in the terms proposed);
- (c) impose a penalty under regulation 8 (financial penalties) (whether or not of the amount proposed);
- (d) refuse an application for authorisation to provide a third party verification service under regulation 13 (determination of application for authorisation to provide a third party verification service);
- (e) cancel a person's authorisation to provide a third party verification service under regulation 16 (cancellation of authorisation to provide a third party verification service on the initiative of the FCA);
- (f) refuse an application to cancel a person's authorisation to provide a third party verification service under regulation 17 (cancellation of authorisation to provide a third party verification service at request of third party verifier);

it must without delay give the person concerned a decision notice.

(2) A decision notice about a decision to impose a temporary prohibition relating to management functions under regulation 5 must set out the terms of the prohibition.

(3) A decision notice about a decision to publish a statement under regulation 7 must set out the terms of the statement.

(4) A decision notice about a decision to impose a penalty under regulation 8 must state the amount of the penalty.

(5) After a statement under regulation 7 (public censure) is published, the appropriate regulator must send a copy of it to the person concerned and to any person to whom a copy of the decision notice is given under section 393(4)^{M5} of the Act (third party rights) (as applied by Schedule 1 (application of Part 26 of the Act)).

Marginal Citations

M5 Section 393 was amended by paragraph 32 of Schedule 9 to the [Financial Services Act 2012 \(c.21\)](#).

CHAPTER 3

Temporary ban on STS notifications

Imposition of a temporary ban

21.—(1) If the FCA considers that an originator, sponsor or SSPE has failed to meet the requirements under Article 19, 20, 21, 22, 23, 24, 25 or 26 of the EU Securitisation Regulation 2017, or an originator or sponsor has made a misleading notification pursuant to Article 27(1) of the EU Securitisation Regulation 2017, the FCA may, for such period as it considers appropriate, temporarily ban the originator or sponsor from making a notification under Article 27(1).

(2) The FCA may—

- (a) revoke a temporary ban imposed under paragraph (1); or
- (b) vary the period for which the temporary ban has effect.

(3) The FCA must consult the PRA before imposing a temporary ban on an originator or sponsor who is a PRA-authorized person, or varying such a ban so as to extend the period it has effect.

Procedure for the imposition, variation or revocation of a temporary ban on STS notifications

22.—(1) When the FCA exercise its functions under regulation 21, its decision takes effect—

- (a) immediately, if the notice under paragraph (3) states that is the case;
- (b) on such other a date as may be specified in the notice; or
- (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.

(2) A decision of the FCA made under regulation 21 may be expressed to take effect immediately (or on a specified date) only if the FCA, having regard to the ground on which it is exercising this power, reasonably considers that it is necessary for the decision to take effect immediately (or on that date).

(3) If the FCA proposes to exercise, or exercises, its functions under regulation 21, it must give the originator or sponsor a written notice.

(4) The notice must—

- (a) give details of the temporary ban or variation;
- (b) state the FCA's reasons for the temporary ban, or the revocation of the temporary ban or the variation of the temporary ban;
- (c) inform the originator or sponsor that they may make representations to the FCA within such period as may be specified in the notice (whether or not the originator or sponsor have referred the matter to the Tribunal);
- (d) inform the originator or sponsor when the temporary ban, or the revocation of the temporary ban or the variation of the temporary ban takes effect; and
- (e) inform the originator or sponsor of their right to refer the matter to the Tribunal and an indication of the procedure for such a reference.

(5) The FCA may extend the period allowed under the notice for making representations.

(6) If, having considered any representations made by a person to whom the notice was given, the FCA decides—

- (a) to impose the temporary ban, or revoke or vary the temporary ban, in the way proposed;
- (b) not to impose the temporary ban, or revoke or vary the temporary ban, in the way proposed;

- (c) to revoke the temporary ban, or the variation of the temporary ban, which has taken effect;
- (d) if the temporary ban has been imposed or varied, not to revoke the temporary ban or variation of the temporary ban; or
- (e) to impose or vary the temporary ban in a different way;

it must give the person written notice.

(7) A notice given under paragraph (6)(a), (d) or (e) must inform the person to whom it is given of his right to refer the matter to the Tribunal and provide an indication of the procedure for such a reference.

(8) For the purposes of paragraph (2)(c), whether a matter is open to review is to be determined in accordance with section 391(8) of the Act.

CHAPTER 4

Right to refer to the Tribunal

Right to refer a matter to the Tribunal

23.—(1) If the appropriate regulator decides to—

- (a) impose a temporary prohibition on the person under regulation 5 (temporary prohibition relating to management functions);
- (b) publish a statement in respect of a person under regulation 7 (public censure); or
- (c) impose a penalty on a person under regulation 8 (financial penalties);

the person concerned may refer the matter to the Tribunal.

(2) If the FCA decides to refuse a person's application for authorisation to provide a third party verification service under regulation 13 (determination of application for authorisation to provide a third party verification service), the person concerned may refer the matter to the Tribunal.

(3) If the FCA decides to temporarily withdraw an authorisation to provide a third party verification service under regulation 15 (temporary withdrawal of authorisation to provide a third party verification service: procedure), or varies the details of the temporary withdrawal so as to extend the period it has effect, the person concerned may refer the matter to the Tribunal.

(4) If the FCA decides to cancel an authorisation to provide a third party verification service under regulation 16 (cancellation of authorisation to provide a third party verification service on the initiative of the FCA), the person concerned may refer the matter to the Tribunal.

(5) If the FCA refuses an application to cancel an authorisation to provide a third party verification service under regulation 17 (cancellation of authorisation to provide a third party verification service at request of third party verifier), the person concerned may refer the matter to the Tribunal.

(6) If the FCA imposes a temporary ban under regulation 21 (imposition of a temporary ban), or varies such a ban so as to extend the period it has effect, the person concerned may refer the matter to the Tribunal.

PART 4

Miscellaneous provisions

Consultation in relation to taking certain enforcement action

24.—(1) The FCA must consult the PRA before giving a warning notice under regulation 19(1) (b) to (f) or a decision notice under regulation 20(1)(b) to (f) in relation to a person who—

- (a) is a PRA-authorised person; or
- (b) has a qualifying relationship with a PRA-authorised person.

(2) The FCA must consult the PRA before giving a warning notice under regulation 19(1)(a) or a decision notice under regulation 20(1)(a) if as a result of the prohibition in question an individual would be prohibited from performing a management function in relation to a PRA-authorised person.

(3) The PRA must consult the FCA before giving a warning notice under regulation 19(1) or a decision notice under regulation 20(1).

(4) A person has a qualifying relationship with a PRA-authorised person for the purposes of this regulation if the person is a member of the PRA-authorised person's immediate group.

(5) In this regulation, “immediate group” has the meaning given in section 421ZA^{M6} of the Act.

Marginal Citations

M6 Section 421ZA was inserted by section 48(2) of the [Financial Services Act 2012 \(c.21\)](#).

Transparency requirements for originators, sponsors and SSPEs of private securitisations – power of direction

25.—(1) The originator, sponsor or SSPE of a private securitisation that is established in the United Kingdom must make the information under Article 7(1)(a) to (g) of the EU Securitisation Regulation 2017 available to the FCA or the PRA, as appropriate, in accordance with that Article in such manner as the FCA or the PRA, as the case may be, may direct.

(2) In this regulation, “private securitisation” means a securitisation [^{F8}for which section 85 of the Act (prohibition of dealing etc in transferable securities without approved prospectus) and rules made by the FCA for the purposes of Part 6 of the Act (official listing) do not require an approved prospectus to be drawn up].

Textual Amendments

F8 Words in [reg. 25\(2\)](#) substituted (31.12.2020) by [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), [regs. 1\(2\)](#), **58(5)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Informing the FCA of STS notifications – power of direction

26. An originator or sponsor of a securitisation established in the United Kingdom must inform the FCA of an STS notification in accordance with Article 27(1) of the EU Securitisation Regulation 2017 in such manner as the FCA may direct.

Application of the Act and secondary legislation

27. Schedule 1 applies the Act and secondary legislation made under it with modifications.

Minor and consequential amendments

28. Schedule 2 makes minor and consequential amendments to primary and secondary legislation.

Review

^{F9}**29.**

Textual Amendments

F9 Regulations revoked (14.12.2023 for the revocation of reg. 29) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(3), **Sch. 1 Pt. 2** (with s. 1(4)); S.I. 2023/1382, reg. 2(c)(xxii)

Mike Freer
Paul Maynard
Two of the Lords Commissioners of Her
Majesty's Treasury

Changes to legislation:

There are currently no known outstanding effects for the The Securitisation Regulations 2018.