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STATUTORY INSTRUMENTS

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**2018 No. 135**

The Financial Services and Markets Act  
2000 (Benchmarks) Regulations 2018

PART 2

FCA powers over Miscellaneous BM persons

**Statements of policy**

- 14.**—(1) The FCA must prepare and issue a statement of policy with respect to—
- (a) the imposition of penalties under regulation 11 (financial penalties); and
  - (b) the amount of penalties under that regulation.
- (2) The policy must require the FCA, in determining the amount of penalties, to have regard to—
- (a) the gravity and duration of the infringement;
  - (b) the criticality of the benchmark to financial stability and the real economy;
  - (c) the degree of responsibility of the responsible person;
  - (d) the financial strength of the responsible person, as indicated, in particular, by the total annual turnover of the responsible legal person or the annual income of the responsible natural person;
  - (e) the level of the profits gained or the losses avoided by the responsible person, insofar as they can be determined;
  - (f) the level of cooperation of the responsible person with the FCA, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;
  - (g) previous infringements by the person concerned;
  - (h) measures taken, after the infringement, by a responsible person to prevent a repetition of the infringement;
  - (i) the seriousness of the contravention in question in relation to the nature of the requirement contravened.
- (3) The FCA 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, the FCA must issue the altered or replacement statement.
- (5) The FCA 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 must be published by the FCA in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (7) The FCA 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 11 (financial penalties) in the case of any particular contravention, the FCA 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.