
STATUTORY INSTRUMENTS

2018 No. 135

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

PART 2

FCA powers over Miscellaneous BM persons

Application of Part 9 of the Act (hearings and appeals)

18.—(1) Part 9^{M1} of the Act (hearings and appeals) applies with respect to proceedings pursuant to references to the Tribunal under Part 2 of these Regulations and under the Act as applied by Part 2 of these Regulations (“relevant proceedings”) as it applies with respect to proceedings pursuant to references to the Tribunal under the Act, with the following modifications.

(2) Section 133^{M2} of the Act (proceedings before the Tribunal: general provision) applies as if—

(a) in subsection (1)—

- (i) “(whether made under this or any other Act)” were omitted;
- (ii) in paragraph (a) “or the PRA” were omitted; and
- (iii) paragraphs (b) and (c) were omitted;

(b) in subsection (2) “, (b) or (c)” were omitted;

(c) a decision to impose a penalty under regulation 11 (financial penalties) and a decision to publish a statement of censure under regulation 10 (public censure) were a “disciplinary reference” in subsection (7A).

(3) Section 133A of the Act (proceedings before Tribunal: decision and supervisory notices, etc.) applies as if—

(a) for subsection (1) there were substituted—

“(1) In determining in accordance with section 133(5) (as applied by these Regulations) a reference made as a result of a decision notice given by the FCA, the Tribunal may not direct the FCA to take action which it would not, under the Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018, have the power to take when giving the notice.”;

(b) in subsection (5) “or the PRA” were omitted.

(4) Section 133B^{M3} of the Act (offences) applies as if in subsection (1)—

- (a) in paragraph (a) “or the PRA” were omitted; and
- (b) paragraphs (b) and (c) were omitted.

Marginal Citations

M1 Part 9 was amended by paragraphs 44 and 45 of Schedule 2 to S.I. 2010/22, section 23(2)(a), (b), (c), and section 23(4) of Part 2 of the Financial Services Act 2012, paragraph 83 of Schedule 9(3)

Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018, Section 18. (See end of Document for details)

to the Crime and Courts Act 2013 (c.22), **regulation 3(3)** of Part 2 of S.I. 2013/1388, **article 116** of S.I. 2014/3329, **regulation 10(4)** of Part 2 of S.I. 2016/680, and regulation 2(5)(b) of S.I. 2017/1064. There are other amendments but none is relevant.

M2 Section 133 was amended by paragraph 45 of Schedule 2 to S.I. 2010/22, **section 23(2)(a)**, (b) and (c) of the Financial Services Act 2012, paragraph 83 of Schedule 9(3) to the Crime and Courts Act 2013 (c.22), **regulation 3(3)** of Part 2 of S.I. 2013/1388, **regulation 10(4)** of Part 2 of S.I. 2016/680 and regulation 2(5)(b) of S.I. 2017/1064. There are other amendments but none is relevant.

M3 Section 133B was inserted by paragraph 45 of Schedule 2 to S.I. 2010/22 and amended by section 23(4) of the Financial Services Act 2012.

Changes to legislation:

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018, Section 18.