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STATUTORY INSTRUMENTS

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**2018 No. 990**

**The Bank of England and Financial Services  
Act 2016 (Commencement No. 5 and  
Transitional Provisions) Regulations 2018**

**PART 3**

**Transitional Provisions**

**Prohibition orders**

**3.—**(1) Paragraph (2) applies to—

- (a) a warning notice or a decision notice under section 57 of FSMA (prohibition orders: procedure and right to refer to Tribunal)(**1**);
- (b) a further decision notice concerning a prohibition order under section 390(2A) of FSMA (final notices)(**2**) relating to a decision notice under that section;
- (c) a final notice under section 390 about an order under section 56 of FSMA (prohibition orders)(**3**); or
- (d) a prohibition order under section 56 of FSMA,

which is given or made before 10th December 2018.

(2) The notice or prohibition order is not affected by—

- (a) the amendments made to section 59 of FSMA by section 21 of, and Schedule 4 to, the Act (in so far as they relate to insurers); or
- (b) rules made by the appropriate regulator under section 59 of FSMA before 10th December 2018 (in so far as they relate to insurers) which alter or replace a description of a controlled function to which the notice or prohibition order relates.

(3) But nothing in this regulation prevents a prohibition order that—

- (a) is made in relation to a person on or after 10th December 2018; and
- (b) relates to any functions to which a warning notice or decision notice given to the person before that date in respect of the order related,

from describing, or referring to, those functions in a different way from the way in which they were described or referred to in the notice.

**Statement of responsibilities – deemed or continuing approval before 10th December 2018**

**4.—**(1) This regulation applies where—

- (a) Condition A, B or C is met; and

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(1) Section 57 was amended by section 13 of the Financial Services Act 2012.

(2) Subsection (2A) of section 390 was inserted by paragraph 29 of Schedule 9 to the Financial Services Act 2012.

(3) Section 56 was amended by section 13 of the Financial Services Act 2012.

- (b) Condition D is met.
- (2) Condition A is that—
- (a) a person has been given an approval by the appropriate regulator for the purposes of section 59 of FSMA(4) before 10th December 2018; and
  - (b) rules made by the appropriate regulator before 10th December 2018 deem the approval referred to in sub-paragraph (a) to be an approval in relation to performing a designated senior management function on or after 10th December 2018.
- (3) For the purposes of Condition A a reference to an approval in paragraph (2)(a) includes a reference to an approval, however described, in an Act or any subordinate legislation made under that Act.
- (4) Condition B is that a person has been given a continuing approval by the PRA for the performance of a controlled function in relation to an insurer in accordance with the Financial Services (Banking Reform) Act 2013 (Transitional and Savings Provisions) Order 2015(5).
- (5) Condition C is that—
- (a) an authorised person has made an application for approval to perform a controlled function under section 59 of FSMA on or after 1st January 2016 and before 10th December 2018; and
  - (b) the PRA has granted that approval on or after 7th March 2016.
- (6) Condition D is that the authorised person is an insurer.
- (7) An authorised person must prepare a statement of responsibilities in respect of a person referred to in Conditions A, B or C in the manner referred to in paragraph (8).
- (8) The statement of responsibilities must be prepared, in accordance with section 62A of FSMA (change in responsibilities of senior managers)(6), as if there had been a significant change in the aspects of the authorised person’s affairs which the person is responsible for managing in performing a controlled function.
- (9) The powers of the appropriate regulator under section 62A(3) of FSMA shall apply in relation to the statement of responsibilities under this regulation as they apply where there is a significant change as set out in section 62A(2) of FSMA.
- (10) For the purposes of this regulation “the appropriate regulator” has the meaning given in section 62A(4) of FSMA.

#### **Application of section 62A of FSMA to a statement of responsibilities prepared under regulation 4**

5. Where a statement of responsibilities is prepared in accordance with regulation 4(8) and (9), section 62A of FSMA has effect as if—
- (a) subsection (1) was omitted;
  - (b) the reference in subsection (2) to “the granting of the application” was a reference to 10th December 2018; and
  - (c) the reference in that subsection to a statement of responsibilities included a reference to a statement under regulation 4(8) and (9).

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(4) Section 59 was amended by section 14 of, and paragraph 3 of Schedule 5 to, the Financial Services Act 2012, section 18 of, and paragraph 1 of Schedule 3 to, the Financial Services (Banking Reform) Act 2013, paragraph 2 of Schedule 4 to the Bank of England and Financial Services Act 2016 and [S.I. 2012/1906](#) and [2013/1773](#).

(5) [S.I. 2015/492](#).

(6) Section 62A was amended by section 24 of the Financial Services (Banking Reform) Act 2013 and section 23 of, and paragraph 7 of Schedule 4 to, the Bank of England and Financial Services Act 2016.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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