
STATUTORY INSTRUMENTS

2019 No. 1136

**The Bank of England and Financial Services
Act 2016 (Commencement No. 6 and
Transitional Provisions) Regulations 2019**

PART 3

Transitional Provisions

Deemed approval to perform designated senior management functions: requirement to provide statement of responsibilities

5.—(1) This regulation applies to a solo-regulated firm in relation to which the conditions in paragraphs (2) and (3) are met.

(2) The condition in this paragraph is that, before the relevant date—

- (a) the FCA granted an application under section 60 of FSMA⁽¹⁾ by the firm for approval under section 59 of FSMA for a person (“the approved person”) to perform a controlled function, or
- (b) the firm was given an approval (however described) under any enactment which has effect as an approval under section 59 of FSMA for a person (“the approved person”) to perform a controlled function.

(3) The condition in this paragraph is that—

- (a) the approval mentioned in paragraph (2) is in force at the beginning of the relevant date,
- (b) that approval is deemed at that time, under rules made by the FCA before that date, to be an approval to perform a designated senior management function on or after that date, and
- (c) the approved person is, at the beginning of the relevant date, retained to perform that designated senior management function.

(4) Within five days beginning with the relevant date, the firm must prepare a statement setting out the aspects of the affairs of the firm which the approved person is, at the beginning of that date, responsible for managing in performing the designated senior management function referred to in paragraph (3).

(5) For the purposes of paragraph (4), managing an aspect of a firm’s affairs includes taking decisions, or participating in the taking of decisions, about how that aspect of those affairs should be carried on.

(6) The firm is not required to prepare a statement under paragraph (4) where it has provided a statement containing the same information to the FCA in accordance with rules made by the FCA before the relevant date in connection with the coming into force of the amendments to Part 5 of

(1) Section 60 was amended by paragraph 4 of Schedule 5 to the Financial Services Act 2012 and section 20 of the Financial Services (Banking Reform) Act 2013.

FSMA made by Schedule 4 to the Act so far as brought into force by regulation 2(4) or (5) (as the case may be).

(7) Subsections (4) and (5) of section 60 of FSMA (form and verification of information in statement of responsibilities) apply in relation to the information which a solo-regulated firm is required to include in a statement under paragraph (4) as they apply in relation to the information which an authorised person is required to give in a statement of responsibilities provided under subsection (2A) of that section.

(8) In section 60(4) and (5) of FSMA as applied by paragraph (7)—

- (a) in subsection (4), references to “the appropriate regulator” are to be read as references to the FCA, and
- (b) in subsection (5), the references to applications are to be read as references to statements under paragraph (4).

(9) The requirement to prepare a statement under paragraph (4) has effect—

- (a) for the purposes of any enactment that refers to a requirement imposed by FSMA, and
- (b) so far as the context of the reference permits,

as if it were imposed (in the circumstances in which it is imposed under this regulation) under section 62A(2) of FSMA(2).

(10) In this regulation—

“designated senior management function” has the meaning given by section 59ZB of FSMA(3);

“the relevant date” means—

- (a) in relation to a solo-regulated firm other than a benchmark firm, 9th December 2019;
- (b) in relation to a benchmark firm, 7th December 2020.

Commencement Information

II Reg. 5 in force at 17.7.2019

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

(3) Section 59ZB was inserted by paragraph 3 of Schedule 4 to the Bank of England and Financial Services Act 2016.

Changes to legislation:

There are currently no known outstanding effects for the The Bank of England and Financial Services Act 2016 (Commencement No. 6 and Transitional Provisions) Regulations 2019, Section 5.