



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 1A

THE REGULATORS

[^{F1}CHAPTER 1

THE FINANCIAL CONDUCT AUTHORITY

Textual Amendments

- F1** Pt. 1A substituted for Pt. 1 (24.1.2013 for specified purposes, 19.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), ss. **6(1)**, 122(3) (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c)(2), Sch. Pts. 2, 3, 4; S.I. 2013/423, art. 3, Sch.

The Financial Conduct Authority

1A The Financial Conduct Authority

- (1) The body corporate previously known as the Financial Services Authority is renamed as the Financial Conduct Authority.
- (2) The Financial Conduct Authority is in this Act referred to as “the FCA”.
- (3) The FCA is to have the functions conferred on it by or under this Act.
- (4) The FCA must comply with the requirements as to its constitution set out in Schedule 1ZA.
- (5) Schedule 1ZA also makes provision about the status of the FCA and the exercise of certain of its functions.

Status: Point in time view as at 01/04/2013.

Changes to legislation: Financial Services and Markets Act 2000, CHAPTER 1 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) References in this Act or any other enactment to functions conferred on the FCA by or under this Act include references to functions conferred on the FCA by or under—
- (a) the Insolvency Act 1986,
 - (b) the Banking Act 2009,
 - (c) the Financial Services Act 2012, or
 - (d) a qualifying EU provision that is specified, or of a description specified, for the purposes of this subsection by the Treasury by order.

The FCA's general duties

1B The FCA's general duties

- (1) In discharging its general functions the FCA must, so far as is reasonably possible, act in a way which—
 - (a) is compatible with its strategic objective, and
 - (b) advances one or more of its operational objectives.
- (2) The FCA's strategic objective is: ensuring that the relevant markets (see section 1F) function well.
- (3) The FCA's operational objectives are—
 - (a) the consumer protection objective (see section 1C);
 - (b) the integrity objective (see section 1D);
 - (c) the competition objective (see section 1E).
- (4) The FCA must, so far as is compatible with acting in a way which advances the consumer protection objective or the integrity objective, discharge its general functions in a way which promotes effective competition in the interests of consumers.
- (5) In discharging its general functions the FCA must have regard to—
 - (a) the regulatory principles in section 3B, and
 - (b) the importance of taking action intended to minimise the extent to which it is possible for a business carried on—
 - (i) by an authorised person or a recognised investment exchange, or
 - (ii) in contravention of the general prohibition,
 to be used for a purpose connected with financial crime.
- (6) For the purposes of this Chapter, the FCA's general functions are—
 - (a) its function of making rules under this Act (considered as a whole),
 - (b) its function of preparing and issuing codes under this Act (considered as a whole),
 - (c) its functions in relation to the giving of general guidance under this Act (considered as a whole), and
 - (d) its function of determining the general policy and principles by reference to which it performs particular functions under this Act.
- (7) Except to the extent that an order under section 50 of the Financial Services Act 2012 (orders relating to mutual societies functions) so provides, the FCA's general functions do not include functions that are transferred functions within the meaning of section 52 of that Act.

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(8) “General guidance” has the meaning given in section 139B(5).

1C The consumer protection objective

- (1) The consumer protection objective is: securing an appropriate degree of protection for consumers.
- (2) In considering what degree of protection for consumers may be appropriate, the FCA must have regard to—
 - (a) the differing degrees of risk involved in different kinds of investment or other transaction;
 - (b) the differing degrees of experience and expertise that different consumers may have;
 - (c) the needs that consumers may have for the timely provision of information and advice that is accurate and fit for purpose;
 - (d) the general principle that consumers should take responsibility for their decisions;
 - (e) the general principle that those providing regulated financial services should be expected to provide consumers with a level of care that is appropriate having regard to the degree of risk involved in relation to the investment or other transaction and the capabilities of the consumers in question;
 - (f) the differing expectations that consumers may have in relation to different kinds of investment or other transaction;
 - (g) any information which the consumer financial education body has provided to the FCA in the exercise of the consumer financial education function;
 - (h) any information which the scheme operator of the ombudsman scheme has provided to the FCA pursuant to section 232A.

1D The integrity objective

- (1) The integrity objective is: protecting and enhancing the integrity of the UK financial system.
- (2) The “integrity” of the UK financial system includes—
 - (a) its soundness, stability and resilience,
 - (b) its not being used for a purpose connected with financial crime,
 - (c) its not being affected by behaviour that amounts to market abuse,
 - (d) the orderly operation of the financial markets, and
 - (e) the transparency of the price formation process in those markets.

1E The competition objective

- (1) The competition objective is: promoting effective competition in the interests of consumers in the markets for—
 - (a) regulated financial services, or
 - (b) services provided by a recognised investment exchange in carrying on regulated activities in respect of which it is by virtue of section 285(2) exempt from the general prohibition.

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- (2) The matters to which the FCA may have regard in considering the effectiveness of competition in the market for any services mentioned in subsection (1) include—
- (a) the needs of different consumers who use or may use those services, including their need for information that enables them to make informed choices,
 - (b) the ease with which consumers who may wish to use those services, including consumers in areas affected by social or economic deprivation, can access them,
 - (c) the ease with which consumers who obtain those services can change the person from whom they obtain them,
 - (d) the ease with which new entrants can enter the market, and
 - (e) how far competition is encouraging innovation.

Interpretation of terms used in relation to FCA's general duties

1F Meaning of “relevant markets” in strategic objective

In section 1B(2) “the relevant markets” means—

- (a) the financial markets,
- (b) the markets for regulated financial services (see section 1H(2)), and
- (c) the markets for services that are provided by persons other than authorised persons in carrying on regulated activities but are provided without contravening the general prohibition.

1G Meaning of “consumer”

- (1) In sections 1B to 1E “consumers” means persons who—
 - (a) use, have used or may use—
 - (i) regulated financial services, or
 - (ii) services that are provided by persons other than authorised persons but are provided in carrying on regulated activities,
 - (b) have relevant rights or interests in relation to any of those services,
 - (c) have invested, or may invest, in financial instruments, or
 - (d) have relevant rights or interests in relation to financial instruments.
- (2) A person (“P”) has a “relevant right or interest” in relation to any services within subsection (1)(a) if P has a right or interest—
 - (a) which is derived from, or is otherwise attributable to, the use of the services by others, or
 - (b) which may be adversely affected by the use of the services by persons acting on P's behalf or in a fiduciary capacity in relation to P.
- (3) If a person is providing a service within subsection (1)(a) as trustee, the persons who are, have been or may be beneficiaries of the trust are to be treated as persons who use, have used or may use the service.
- (4) A person who deals with another person (“B”) in the course of B providing a service within subsection (1)(a) is to be treated as using the service.
- (5) A person (“P”) has a “relevant right or interest” in relation to any financial instrument if P has—

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- (a) a right or interest which is derived from, or is otherwise attributable to, investment in the instrument by others, or
- (b) a right or interest which may be adversely affected by the investment in the instrument by persons acting on P's behalf or in a fiduciary capacity in relation to P.

1H Further interpretative provisions for sections 1B to 1G

- (1) The following provisions have effect for the interpretation of sections 1B to 1G.
- (2) “Regulated financial services” means services provided—
 - (a) by authorised persons in carrying on regulated activities;
 - (b) by authorised persons in carrying on a consumer credit business in connection with the accepting of deposits;
 - (c) by authorised persons in communicating, or approving the communication by others of, invitations to engage in investment activity;
 - (d) by authorised persons who are investment firms, or credit institutions, in providing relevant ancillary services;
 - (e) by persons acting as appointed representatives;
 - (f) by payment service providers in providing payment services;
 - (g) by electronic money issuers in issuing electronic money;
 - (h) by sponsors to issuers of securities;
 - (i) by primary information providers to persons who issue financial instruments.
- (3) “Financial crime” includes any offence involving—
 - (a) fraud or dishonesty,
 - (b) misconduct in, or misuse of information relating to, a financial market,
 - (c) handling the proceeds of crime, or
 - (d) the financing of terrorism.
- (4) “Offence” includes an act or omission which would be an offence if it had taken place in the United Kingdom.
- (5) “Issuer”, except in the expression “electronic money issuer”, has the meaning given in section 102A(6).
- (6) “Financial instrument” has the meaning given in section 102A(4).
- (7) “Securities” has the meaning given in section 102A(2).
- (8) In this section—
 - “accepting”, in relation to deposits, includes agreeing to accept;
 - “consumer credit business” has the same meaning as in the Consumer Credit Act 1974;
 - “credit institution” means—
 - (a) a credit institution authorised under the banking consolidation directive, or
 - (b) an institution which would satisfy the requirements for authorisation as a credit institution under that directive if it had its registered office (or if it does not have a registered office, its head office) in an EEA State;

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“electronic money” has the same meaning as in the Electronic Money Regulations 2011;

“electronic money issuer” means a person who is an electronic money issuer as defined in regulation 2(1) of the Electronic Money Regulations 2011 other than a person falling within paragraph (f), (g) or (j) of the definition;

“engage in investment activity” has the meaning given in section 21;

“financial instrument” has the meaning given in section 102A(4);

“payment services” has the same meaning as in the Payment Services Regulations 2009;

“payment service provider” means a person who is a payment service provider as defined in regulation 2(1) of the Payment Services Regulations 2009 other than a person falling within paragraph (g) or (h) of the definition;

“primary information provider” has the meaning given in section 89P(2);

“relevant ancillary service” means any service of a kind mentioned in Section B of Annex I to the markets in financial instruments directive the provision of which does not involve the carrying on of a regulated activity;

“sponsor” has the meaning given in section 88(2).

1I Meaning of “the UK financial system”

In this Act “the UK financial system” means the financial system operating in the United Kingdom and includes—

- (a) financial markets and exchanges,
- (b) regulated activities, and
- (c) other activities connected with financial markets and exchanges.

Power to amend objectives

1J Power to amend objectives

The Treasury may by order amend any of the following provisions—

- (a) in section 1E(1), paragraphs (a) and (b),
- (b) section 1G, and
- (c) section 1H(2) and (5) to (8).

Guidance about objectives

1K Guidance about objectives

- (1) The general guidance given by the FCA under section 139A must include guidance about how it intends to advance its operational objectives in discharging its general functions in relation to different categories of authorised person or regulated activity.
- (2) Before giving or altering any guidance complying with subsection (1), the FCA must consult the PRA.

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Supervision, monitoring and enforcement

1L Supervision, monitoring and enforcement

- (1) The FCA must maintain arrangements for supervising authorised persons.
- (2) The FCA must maintain arrangements designed to enable it to determine whether persons other than authorised persons are complying—
 - (a) with requirements imposed on them by or under this Act, in cases where the FCA is the appropriate regulator for the purposes of Part 14 (disciplinary measures), or
 - (b) with requirements imposed on them by any qualifying EU provision that is specified, or of a description specified, for the purposes of this subsection by the Treasury by order.
- (3) The FCA must also maintain arrangements for enforcing compliance by persons other than authorised persons with relevant requirements, within the meaning of Part 14, in cases where the FCA is the appropriate regulator for the purposes of any provision of that Part.

Modifications etc. (not altering text)

- C1** S. 1L modified by S.I. 2002/1775, reg. 12(2) (as amended) (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 77\(7\)\(a\)\(i\)](#)

Arrangements for consulting practitioners and consumers

1M The FCA's general duty to consult

The FCA must make and maintain effective arrangements for consulting practitioners and consumers on the extent to which its general policies and practices are consistent with its general duties under section 1B.

1N The FCA Practitioner Panel

- (1) Arrangements under section 1M must include the establishment and maintenance of a panel of persons (to be known as “the FCA Practitioner Panel”) to represent the interests of practitioners.
- (2) The FCA must appoint one of the members of the FCA Practitioner Panel to be its chair.
- (3) The Treasury's approval is required for the appointment or dismissal of the chair.
- (4) The FCA must appoint to the FCA Practitioner Panel such—
 - (a) persons representing authorised persons, and
 - (b) persons representing recognised investment exchanges,as it considers appropriate.
- (5) The FCA may appoint to the FCA Practitioner Panel such other persons as it considers appropriate.

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10 The Smaller Business Practitioner Panel

- (1) Arrangements under section 1M must include the establishment and maintenance of a panel of persons (to be known as “the Smaller Business Practitioner Panel”) to represent the interests of eligible practitioners.
- (2) “Eligible practitioners” means authorised persons of a description specified in a statement maintained by the FCA.
- (3) The FCA must appoint one of the members of the Smaller Business Practitioner Panel to be its chair.
- (4) The Treasury's approval is required for the appointment or dismissal of the chair.
- (5) The FCA must appoint to the Smaller Business Practitioner Panel such—
 - (a) individuals who are eligible practitioners, and
 - (b) persons representing eligible practitioners,
 as it considers appropriate.
- (6) The FCA may appoint to the Smaller Business Practitioner Panel such other persons as it considers appropriate.
- (7) In making the appointments, the FCA must have regard to the desirability of ensuring the representation of eligible practitioners carrying on a range of regulated activities.
- (8) The FCA may revise the statement maintained under subsection (2).
- (9) The FCA must—
 - (a) give the Treasury a copy of the statement or revised statement without delay, and
 - (b) publish the statement as for the time being in force in such manner as it thinks fit.

1P The Markets Practitioner Panel

- (1) Arrangements under section 1M must include the establishment and maintenance of a panel of persons (to be known as “the Markets Practitioner Panel”) to represent the interests of practitioners who are likely to be affected by the exercise by the FCA of its functions relating to markets, including its functions under Parts 6, 8A and 18.
- (2) The FCA must appoint one of the members of the Markets Practitioner Panel to be its chair.
- (3) The Treasury's approval is required for the appointment or dismissal of the chair.
- (4) The FCA must appoint to the Markets Practitioner Panel such persons to represent the interests of persons within subsection (5) as it considers appropriate.
- (5) The persons within this subsection are—
 - (a) authorised persons,
 - (b) persons who issue financial instruments,
 - (c) sponsors, as defined in section 88(2),
 - (d) recognised investment exchanges, and
 - (e) primary information providers, as defined in section 89P(2).

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- (6) The FCA may appoint to the Markets Practitioner Panel such other persons as it considers appropriate.

1Q The Consumer Panel

- (1) Arrangements under section 1M must include the establishment and maintenance of a panel of persons (to be known as “the Consumer Panel”) to represent the interests of consumers.
- (2) The FCA must appoint one of the members of the Consumer Panel to be its chair.
- (3) The Treasury's approval is required for the appointment or dismissal of the chair.
- (4) The FCA may appoint to the Consumer Panel such consumers, or persons representing the interests of consumers, as it considers appropriate.
- (5) The FCA must secure that membership of the Consumer Panel is such as to give a fair degree of representation to those who are using, or are or may be contemplating using, services otherwise than in connection with businesses carried on by them.
- (6) Sections 425A and 425B (meaning of “consumers”) apply for the purposes of this section, but the references to consumers in this section do not include consumers who are authorised persons.

1R Duty to consider representations made by the Panels

- (1) The FCA must consider representations that are made to it in accordance with arrangements made under section 1M.
- (2) The FCA must from time to time publish in such manner as it thinks fit responses to the representations.

Reviews

1S Reviews

- (1) The Treasury may appoint an independent person to conduct a review of the economy, efficiency and effectiveness with which the FCA has used its resources in discharging its functions.
- (2) A review may be limited by the Treasury to such functions of the FCA (however described) as the Treasury may specify in appointing the person to conduct it.
- (3) A review is not to be concerned with the merits of the FCA's general policy or principles in complying with its general duties under section 1B(1) and (4).
- (4) On completion of a review, the person conducting it must make a written report to the Treasury—
 - (a) setting out the result of the review, and
 - (b) making such recommendations (if any) as the person considers appropriate.
- (5) A copy of the report must be—
 - (a) laid before Parliament, and
 - (b) published in such manner as the Treasury consider appropriate.

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- (6) Any expenses reasonably incurred in the conduct of the review are to be met by the Treasury out of money provided by Parliament.
- (7) “Independent” means appearing to the Treasury to be independent of the FCA.

1T Right to obtain documents and information

- (1) A person conducting a review under section 1S—
 - (a) has a right of access at any reasonable time to all such documents as the person may reasonably require for the purposes of the review, and
 - (b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably necessary for that purpose.
- (2) Subsection (1) applies only to documents in the custody of or under the control of the FCA.
- (3) An obligation imposed on a person as a result of the exercise of the powers conferred by subsection (1) is enforceable by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.]

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