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Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 1A

THE REGULATORS

CHAPTER 3

FURTHER PROVISIONS RELATING TO FCA AND PRA

[^{F1}Power of PRA to restrain proposed action by FCA

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.](#)

31 Power of PRA to require FCA to refrain from specified action

- (1) Where the first, second and third conditions are met, the PRA may give a direction under this section to the FCA.
- (2) The first condition is that the FCA is proposing—
 - (a) to exercise any of its regulatory powers in relation to PRA-[authorised persons](#) generally, a class of PRA-[authorised persons](#) or a particular PRA-[authorised person](#), or
 - (b) to exercise any of its insolvency powers in relation to—
 - (i) a PRA-[authorised person](#),
 - (ii) an appointed representative whose principal, or one of whose principals, is a PRA-[authorised person](#), or

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- (iii) a person who is carrying on a PRA-regulated activity in contravention of the general prohibition.
- (3) In subsection (2)—
- (a) “regulatory powers”, in relation to the FCA, means its powers in relation to the regulation of authorised persons, other than its powers in relation to consent for the purposes of section 55F or 55I [^{F2}, a power conferred on it by sections 234I to 234M] or its powers under Part 24;
 - (b) “insolvency powers”, in relation to the FCA, means its powers under Part 24.
- (4) The second condition is that the PRA is of the opinion that the exercise of the power in the manner proposed may—
- (a) threaten the stability of the UK financial system, or
 - (b) result in the failure of a PRA-authorised person in a way that would adversely affect the UK financial system.
- (5) The third condition is that the PRA is of the opinion that the giving of the direction is necessary in order to avoid the possible consequence falling within subsection (4).
- (6) A direction under this section is a direction requiring the FCA not to exercise the power or not to exercise it in a specified manner.
- (7) The direction may be expressed to have effect during a specified period or until revoked.
- (8) The FCA is not required to comply with a direction under this section if or to the extent that in the opinion of the FCA compliance would be incompatible with any EU obligation or any other international obligation of the United Kingdom.
- (9) The reference in subsection (4)(b) to the “failure” of a PRA-authorised person is to be read in accordance with section 2J(3) and (4).

Textual Amendments

F2 Words in s. 3I(3)(a) inserted (1.11.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 8 para. 4](#); S.I. 2014/2458, art. 2(b)(bb)(ii)

3J Power of PRA in relation to with-profits policies

- (1) Where the first, second and third conditions are met, the PRA may give a direction under this section to the FCA.
- (2) The first condition is that the FCA is proposing to exercise any of its regulatory powers in relation to with-profits insurers, a class of with-profits insurers or a particular with-profits insurer.
- (3) In subsection (2) “regulatory powers”, in relation to the FCA, means its powers in relation to the regulation of authorised persons, including its powers under Part 24 (insolvency) but not its powers in relation to consent for the purposes of section 55F or 55I.
- (4) The second condition is that the proposed exercise of the power relates to the provision of financial benefits under with-profits policies at the discretion of the insurer, or

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affects or may affect the amount, timing or distribution of financial benefits that are so provided or the entitlement to future benefits that are so provided.

- (5) The third condition is that the PRA is of the opinion that the giving of the direction is desirable in order to advance the PRA's general objective or its insurance objective.
- (6) A direction under this section is a direction requiring the FCA not to exercise the power or not to exercise it in a specified manner.
- (7) The direction may be expressed to have effect during a specified period or until revoked.
- (8) The FCA is not required to comply with a direction under this section if or to the extent that in the opinion of the FCA compliance would be incompatible with any EU obligation or any other international obligation of the United Kingdom.
- (9) Subsections (1) to (8) apply only if the effecting or carrying out of with-profits policies is a PRA-regulated activity.
- (10) In this section “with-profits insurer” and “with-profits policy” have the same meaning as they have for the purposes of section 3F.

3K Revocation of directions under section 3I or 3J

- (1) The PRA may at any time by notice to the FCA revoke a direction under section 3I or 3J.
- (2) The revocation of a direction under section 3I or 3J does not affect the validity of anything previously done in accordance with it.

3L Further provisions about directions under section 3I or 3J

- (1) Before giving a direction under section 3I or 3J, the PRA must consult the FCA.
- (2) A direction under section 3I or 3J must be given or confirmed in writing, and must be accompanied by a statement of the reasons for giving it.
- (3) A notice revoking a direction under section 3I or 3J must be given or confirmed in writing.
- (4) The PRA must—
 - (a) publish the direction and statement, or the notice, in such manner as it thinks fit, and
 - (b) where the direction or notice relates to a particular authorised person or a particular with-profits insurer, give a copy of the direction and statement, or the notice, to that person.
- (5) The PRA must give the Treasury a copy of—
 - (a) a direction under section 3I;
 - (b) a statement relating to such a direction;
 - (c) a notice revoking such a direction.
- (6) The Treasury must lay before Parliament any document received by them under subsection (5).

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- (7) Subsection (4) does not apply where the PRA, after consulting the Treasury, decides that compliance with that subsection would be against the public interest, and at any time when this subsection excludes the application of subsection (4) in relation to a direction under section 3I, subsection (6) also does not apply.
- (8) Where the PRA decides that compliance with subsection (4) would be against the public interest, it must from time to time review that decision and if it subsequently decides that compliance is no longer against the public interest it must—
- (a) comply with that subsection, and
 - (b) in the case of a direction under section 3I, notify the Treasury for the purposes of subsection (6).]

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