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# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### [<sup>F1</sup>PART 4A

#### PERMISSION TO CARRY ON REGULATED ACTIVITIES

#### *[<sup>F1</sup>Imposition and variation of requirements*

##### Textual Amendments

- F1** Pt. 4A substituted for ss. 40-55 (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 11(2)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

#### **55L Imposition of requirements by FCA**

- (1) Where a person has applied (whether to the FCA or the PRA) for a Part 4A permission or the variation of a Part 4A permission, the FCA may impose on that person such requirements, taking effect on or after the giving or variation of the permission, as the FCA considers appropriate.
- (2) The FCA may exercise its power under subsection (3) in relation to an authorised person with a Part 4A permission (whether given by it or by the PRA) (“A”) if it appears to the FCA that—
  - (a) A is failing, or is likely to fail, to satisfy the threshold conditions for which the FCA is responsible,
  - (b) A has failed, during a period of at least 12 months, to carry on a regulated activity to which the Part 4A permission relates, or
  - (c) it is desirable to exercise the power in order to advance one or more of the FCA's operational objectives.
- (3) The FCA's power under this subsection is a power—
  - (a) to impose a new requirement,

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- (b) to vary a requirement imposed by the FCA under this section, or
  - (c) to cancel such a requirement.
- (4) The FCA's power under subsection (3) is referred to in this Part as its own-initiative requirement power.
- (5) The FCA may, on the application of an authorised person with a Part 4A permission—
- (a) impose a new requirement,
  - (b) vary a requirement imposed by the FCA under this section, or
  - (c) cancel such a requirement.
- (6) The FCA may refuse an application under subsection (5) if it appears to it that it is desirable to do so in order to advance any of its operational objectives.
- (7) The FCA must consult the PRA before imposing or varying a requirement which relates to—
- (a) a person who is, or will on the granting of an application for Part 4A permission be, a PRA-authorised person, or
  - (b) a person who is a member of a group which includes a PRA-authorised person.

**Modifications etc. (not altering text)**

**C1** S. 55L(2) modified by S.I. 1995/1442, reg. 49(2) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 12\(c\)\(i\)](#))

**55M Imposition of requirements by PRA**

- (1) Where—
- (a) a person has applied for a Part 4A permission in relation to activities which consist of or include a PRA-regulated activity,
  - (b) a PRA-authorised person has applied for a Part 4A permission or the variation of a Part 4A permission, or
  - (c) an authorised person other than a PRA-authorised person has applied for a Part 4A permission to be varied by adding to the regulated activities to which it relates one or more regulated activities which include a PRA-regulated activity,
- the PRA may impose on that person such requirements, taking effect on or after the giving or variation of the permission, as the PRA considers appropriate.
- (2) The PRA may exercise its power under subsection (3) in relation to a PRA-authorised person with a Part 4A permission (“P”) if it appears to the PRA that—
- (a) P is failing, or is likely to fail, to satisfy the threshold conditions for which the PRA is responsible,
  - (b) P has failed, during a period of at least 12 months, to carry on a regulated activity to which the Part 4A permission relates, or
  - (c) it is desirable to exercise the power in order to advance any of the PRA's objectives.
- (3) The PRA's power under this subsection is a power—
- (a) to impose a new requirement,

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- (b) to vary a requirement imposed by the PRA under this section, or
  - (c) to cancel such a requirement.
- (4) The PRA's power under subsection (3) is referred to in this Part as its own-initiative requirement power.
- (5) The PRA may, on the application of a PRA-authorized person with a Part 4A permission—
- (a) impose a new requirement,
  - (b) vary a requirement imposed by the PRA under this section, or
  - (c) cancel such a requirement.
- (6) The PRA may refuse an application under subsection (5) if it appears to it that it is desirable to do so in order to advance any of its objectives.
- (7) The PRA must consult the FCA before imposing or varying a requirement.

**Modifications etc. (not altering text)**

- C2** S. 55M(2) modified by S.I. 1995/1442, reg. 49(2) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 12\(c\)\(i\)](#))

**55N Requirements under section 55L or 55M: further provisions**

- (1) A requirement may, in particular, be imposed—
- (a) so as to require the person concerned to take specified action, or
  - (b) so as to require the person concerned to refrain from taking specified action.
- (2) A requirement may extend to activities which are not regulated activities.
- (3) A requirement may be imposed by reference to the person's relationship with—
- (a) the person's group, or
  - (b) other members of the person's group.
- (4) A requirement may be expressed to expire at the end of such period as the regulator imposing it may specify, but the imposition of a requirement that expires at the end of a specified period does not affect the regulator's power to impose a new requirement.
- (5) A requirement may refer to the past conduct of the person concerned (for example, by requiring the person concerned to review or take remedial action in respect of past conduct).
- (6) In this section “requirement” means a requirement imposed under section 55L or 55M.

**55O Imposition of requirements on acquisition of control**

- (1) This section applies if it appears to the appropriate regulator that—
- (a) a person has acquired control over a UK authorised person who has a Part 4A permission, but
  - (b) there are no grounds for exercising its own-initiative requirement power.

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- (2) If it appears to the appropriate regulator that the likely effect of the acquisition of control on the UK authorised person, or on any of its activities, is uncertain, the appropriate regulator may—
- (a) impose on the UK authorised person a requirement that could be imposed by that regulator under section 55L or 55M (as the case may be) on the giving of permission, or
  - (b) vary a requirement imposed by that regulator under that section on the UK authorised person.
- (3) “The appropriate regulator” means—
- (a) in a case where the UK authorised person is a PRA-authorised person, the FCA or the PRA;
  - (b) in any other case, the FCA.
- (4) This section does not affect any duty of the appropriate regulator to consult or obtain the consent of the other regulator in connection with the imposition of the requirement.
- (5) Any reference to a person having acquired control is to be read in accordance with Part 12.

## **55P Prohibitions and restrictions**

- (1) This section applies if—
- (a) on a person being given a Part 4A permission, either regulator imposes an assets requirement on that person,
  - (b) an assets requirement is imposed on an authorised person, or
  - (c) an assets requirement previously imposed on such a person is varied.
- (2) A person on whom an assets requirement is imposed is referred to in this section as “A”.
- (3) The “appropriate regulator” is the regulator which imposed the requirement.
- (4) “Assets requirement” means a requirement under section 55L or 55M—
- (a) prohibiting the disposal of, or other dealing with, any of A's assets (whether in the United Kingdom or elsewhere) or restricting such disposals or dealings, or
  - (b) that all or any of A's assets, or all or any assets belonging to consumers but held by A or to A's order, must be transferred to and held by a trustee approved by the appropriate regulator.
- (5) If the appropriate regulator—
- (a) imposes a requirement of the kind mentioned in subsection (4)(a), and
  - (b) gives notice of the requirement to any institution with whom A keeps an account,
- the notice has the effects mentioned in subsection (6).
- (6) Those effects are that—
- (a) the institution does not act in breach of any contract with A if, having been instructed by A (or on A's behalf) to transfer any sum or otherwise make any payment out of A's account, it refuses to do so in the reasonably held belief that complying with the instruction would be incompatible with the requirement, and

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- (b) if the institution complies with such an instruction, it is liable to pay to the appropriate regulator an amount equal to the amount transferred from, or otherwise paid out of, A's account in contravention of the requirement.
- (7) If the appropriate regulator imposes a requirement of the kind mentioned in subsection (4)(b), no assets held by a person as trustee in accordance with the requirement may, while the requirement is in force, be released or dealt with except with the consent of the appropriate regulator.
- (8) If, while a requirement of the kind mentioned in subsection (4)(b) is in force, A creates a charge over any assets of A held in accordance with the requirement, the charge is (to the extent that it confers security over the assets) void against the liquidator and any of A's creditors.
- (9) Assets held by a person as trustee (“T”) are to be taken to be held by T in accordance with any requirement mentioned in subsection (4)(b) only if—
- (a) A has given T written notice that those assets are to be held by T in accordance with the requirement, or
  - (b) they are assets into which assets to which paragraph (a) applies have been transposed by T on the instructions of A.
- (10) A person who contravenes subsection (7) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (11) “Charge” includes a mortgage (or in Scotland a security over property).
- (12) Subsections (7) and (9) do not affect any equitable interest or remedy in favour of a person who is a beneficiary of a trust as a result of a requirement of the kind mentioned in subsection (4)(b).]

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