



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 4A

PERMISSION TO CARRY ON REGULATED ACTIVITIES

[^{F1}Procedure

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.](#)

55U Applications under this Part

- (1) An application for a Part 4A permission must—
 - (a) contain a statement of the regulated activity or regulated activities which the applicant proposes to carry on and for which the applicant wishes to have permission, and
 - (b) give the address of a place in the United Kingdom for service on the applicant of any notice or other document which is required or authorised to be served on the applicant under this Act.
- (2) An application for the variation of a Part 4A permission must contain a statement—
 - (a) of the desired variation, and
 - (b) of the regulated activity or regulated activities which the applicant proposes to carry on if the permission is varied.
- (3) An application for the variation of a requirement imposed under section 55L or 55M or for the imposition of a new requirement must contain a statement of the desired variation or requirement.
- (4) An application under this Part must—

Status: Point in time view as at 01/04/2014.

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- (a) be made in such manner as the regulator to which it is to be made may direct, and
 - (b) contain, or be accompanied by, such other information as that regulator may reasonably require.
- (5) At any time after the application is received and before it is determined, the appropriate regulator may require the applicant to provide it with such further information as it reasonably considers necessary to enable it to determine the application or, as the case requires, to decide whether to give consent.
- (6) In subsection (5), the “appropriate regulator” means—
- (a) in a case where the application is made to the FCA, the FCA;
 - (b) in a case where the application is made to the PRA, the FCA or the PRA.
- (7) Different directions may be given, and different requirements imposed, in relation to different applications or categories of application.
- (8) Each regulator may require an applicant to provide information which the applicant is required to provide to it under this section in such form, or to verify it in such a way, as the regulator may direct.
- (9) The PRA must consult the FCA before—
- (a) giving a direction under this section in relation to a class of applications, or
 - (b) imposing a requirement under this section in relation to a class of applications.

Modifications etc. (not altering text)

- C1** Pt. 4A modified (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **31(6)**
- C2** S. 55U(1)-(4) excluded (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **31(7)**, 33(5)
- C3** S. 55U(1)-(4) excluded (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **33(5)**
- C4** S. 55U(4)(5)(7)(8) applied (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **4**
- C5** S. 55U(4)(5)(7)(8) applied (with modifications) (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), arts. 1(3)(4), **2(1)**

55V Determination of applications

- (1) An application under this Part must be determined by the regulator to which it is required to be made (“the appropriate regulator”) before the end of the period of 6 months beginning with the date on which it received the completed application.
- (2) The appropriate regulator may determine an incomplete application if it considers it appropriate to do so; and it must in any event determine such an application within 12 months beginning with the date on which it received the application.

Status: Point in time view as at 01/04/2014.

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- (3) Where the application cannot be determined by the appropriate regulator without the consent of the other regulator, the other regulator's decision must also be made within the period required by subsection (1) or (2).
- (4) The applicant may withdraw the application, by giving the appropriate regulator written notice, at any time before the appropriate regulator determines it.
- (5) If the appropriate regulator grants an application—
 - (a) for Part 4A permission,
 - (b) for the variation or cancellation of a Part 4A permission,
 - (c) for the variation or cancellation of a requirement imposed under section 55L or 55M, or
 - (d) for the imposition of a new requirement under either of those sections,it must give the applicant written notice.
- (6) The notice must state the date from which the permission, variation, cancellation or requirement has effect.
- (7) A notice under this section which is given by the PRA and relates to the grant of an application for Part 4A permission or for the variation of a Part 4A permission must state that the FCA has given its consent to the grant of the application.

[In the case of an application for permission under this Part which—

- ^{F2}(8) (a) relates to the regulated activity of managing an AIF, and
 - (b) would if granted result in the applicant becoming a full-scope UKAIFM,
- this section has effect subject to [^{F3}regulation 5][^{F3}regulations 5 and 5A] of the Alternative Investment Fund Managers Regulations 2013 and, accordingly, subsections (1) to (3) do not apply.]

Textual Amendments

- F2** S. 55V(8) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, [Sch. 1 para. 6](#)
- F3** Words in s. 55V(8) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), reg. 1(3), Sch. 1 para. 1(2)

Modifications etc. (not altering text)

- C6** S. 55V modified (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), [31\(8\)](#)
- C7** S. 55V modified (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), [33\(6\)](#)
- C8** S. 55V(4) modified (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), [32\(3\)\(b\)](#)

55W Applications under this Part: communications between regulators

The PRA must as soon as practicable notify the FCA of the receipt or withdrawal of—

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- (a) an application for permission under section 55A,
- (b) an application under section 55I, or
- (c) an application under section 55M(5).

55X Determination of applications: warning notices and decision notices

- (1) If a regulator proposes—
- (a) to give a Part 4A permission but to exercise its power under section 55E(5)(a) or (b) or 55F(4)(a) or (b),
 - (b) to give a Part 4A permission but to exercise its power under section 55L(1) or 55M(1) in connection with the application for permission,
 - (c) to vary a Part 4A permission on the application of an authorised person but to exercise its power under section 55E(5)(a) or (b) or 55F(4)(a) or (b),
 - (d) to vary a Part 4A permission but to exercise its power under section 55L(1) or 55M(1) in connection with the application for variation, or
 - (e) in the case of the FCA, to exercise its power under section 55L(1) in connection with an application to the PRA for a Part 4A permission or the variation of a Part 4A permission,
- it must give the applicant a warning notice.
- (2) If a regulator proposes to refuse an application made under this Part, it must (unless subsection (3) applies) give the applicant a warning notice.
- (3) This subsection applies if it appears to the regulator that—
- (a) the applicant is an EEA firm, and
 - (b) the application is made with a view to carrying on a regulated activity in a manner in which the applicant is, or would be, entitled to carry on that activity in the exercise of an EEA right whether through a United Kingdom branch or by providing services in the United Kingdom.
- (4) If a regulator decides—
- (a) to give a Part 4A permission but to exercise its power under section 55E(5)(a) or (b) or 55F(4)(a) or (b),
 - (b) to give a Part 4A permission but to exercise its power under section 55L(1) or 55M(1) in connection with the giving of the permission,
 - (c) to vary a Part 4A permission on the application of an authorised person but to exercise its power under section 55E(5)(a) or (b) or 55F(4)(a) or (b),
 - (d) to vary a Part 4A permission on the application of an authorised person but to exercise its power under section 55L(1) or 55M(1) in connection with the variation,
 - (e) in the case of the FCA, to exercise its power under section 55L(1) in connection with an application to the PRA for a Part 4A permission or the variation of a Part 4A permission, or
 - (f) to refuse an application under this Part,
- it must give the applicant a decision notice.

55Y Exercise of own-initiative power: procedure

- (1) This section applies to an exercise of either regulator's own-initiative variation power or own-initiative requirement power in relation to an authorised person (“A”).

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- (2) A variation of a permission or the imposition or variation of a requirement takes effect—
 - (a) immediately, if the notice given under subsection (4) states that that is the case,
 - (b) on such date as may be specified in the notice, or
 - (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.
- (3) A variation of a permission, or the imposition or variation of a requirement, may be expressed to take effect immediately (or on a specified date) only if the regulator concerned, having regard to the ground on which it is exercising its own-initiative variation power or own-initiative requirement power, reasonably considers that it is necessary for the variation, or the imposition or variation of the requirement, to take effect immediately (or on that date).
- (4) If either regulator proposes to vary a Part 4A permission or to impose or vary a requirement, or varies a Part 4A permission or imposes or varies a requirement, with immediate effect, it must give A written notice.
- (5) The notice must—
 - (a) give details of the variation of the permission or the requirement or its variation,
 - (b) state the regulator's reasons for the variation of the permission or the imposition or variation of the requirement,
 - (c) inform A that A may make representations to the regulator within such period as may be specified in the notice (whether or not A has referred the matter to the Tribunal),
 - (d) inform A of when the variation of the permission or the imposition or variation of the requirement takes effect, and
 - (e) inform A of A's right to refer the matter to the Tribunal.
- (6) The regulator may extend the period allowed under the notice for making representations.
- (7) If, having considered any representations made by A, the regulator decides—
 - (a) to vary the permission, or impose or vary the requirement, in the way proposed, or
 - (b) if the permission has been varied or the requirement imposed or varied, not to rescind the variation of the permission or the imposition or variation of the requirement,it must give A written notice.
- (8) If, having considered any representations made by A, the regulator decides—
 - (a) not to vary the permission, or impose or vary the requirement, in the way proposed,
 - (b) to vary the permission or requirement in a different way, or impose a different requirement, or
 - (c) to rescind a variation or requirement which has effect,it must give A written notice.
- (9) A notice under subsection (7) must inform A of A's right to refer the matter to the Tribunal.

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- (10) A notice under subsection (8)(b) must comply with subsection (5).
- (11) If a notice informs A of A's right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.
- (12) For the purposes of subsection (2)(c), whether a matter is open to review is to be determined in accordance with section 391(8).

Modifications etc. (not altering text)

- C9** S. 55Y applied (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), regs. 1, **22(4)**
- C10** S. 55Y(5)(6) excluded (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **35(2)**, 37(3)(b), 39(2)(a)(i)(b), 41(2)
- C11** S. 55Y(7) excluded (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **36(2)**
- C12** S. 55Y(9) excluded (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), 38(3)(b), **40(2)(a)(i)(b)**, 42(2)

55Z Cancellation of Part 4A permission: procedure

- (1) If a regulator proposes to cancel an authorised person's Part 4A permission otherwise than at the person's request, it must give the person a warning notice.
- (2) If a regulator decides to cancel an authorised person's Part 4A permission otherwise than at the person's request, it must give the person a decision notice.]

Modifications etc. (not altering text)

- C13** S. 55Z excluded (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **32(3)(a)**

Status:

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Changes to legislation:

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