



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART V

PERFORMANCE OF REGULATED ACTIVITIES

[^{F1}Certification of employees

[^{F1}63E Certification of employees by [^{F2}relevant] authorised persons

- (1) [^{F3}A relevant][^{F3}An] authorised person (“A”) must take reasonable care to ensure that no employee of A performs a specified function under an arrangement entered into by A in relation to the carrying on by A of a regulated activity, unless the employee has a valid certificate issued by A under section 63F.
- (2) “Specified function”—
 - (a) in relation to the carrying on of a regulated activity by a PRA-authorised person, means a function of a description specified in rules made by the FCA or the PRA, and
 - (b) in relation to the carrying on of a regulated activity by any other authorised person, means a function of a description specified in rules made by the FCA.
- (3) The FCA may specify a description of function under subsection (2)(a) or (b) only if, in relation to the carrying on of a regulated activity by [^{F4}a relevant][^{F4}an] authorised person of a particular description—
 - (a) the function is not a controlled function in relation to the carrying on of that activity by [^{F4}a relevant][^{F4}an] authorised person of that description, but
 - (b) the FCA is satisfied that the function is nevertheless a significant-harm function.
- (4) The PRA may specify a description of function under subsection (2)(a) only if, in relation to the carrying on of a regulated activity by a [^{F5}relevant] PRA-authorised person of a particular description—
 - (a) the function is not a controlled function in relation to the carrying on of that activity by a [^{F5}relevant] PRA-authorised person of that description, but

Status: Point in time view as at 10/12/2018. This version of this provision has been superseded.

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- (b) the PRA is satisfied that the function is nevertheless a significant-harm function.
- (5) A function is a “significant-harm function”, in relation to the carrying on of a regulated activity by an authorised person, if—
- (a) the function will require the person performing it to be involved in one or more aspects of the authorised person's affairs, so far as relating to the activity, and
- (b) those aspects involve, or might involve, a risk of significant harm to the authorised person or any of its customers.
- (6) Each regulator must—
- (a) keep under review the exercise of its power under subsection (2) to specify any significant-harm function as a specified function, and
- (b) exercise that power in a way that it considers will minimise the risk of employees of [^{F6}relevant] authorised persons performing significant-harm functions which they are not fit and proper persons to perform.
- (7) Subsection (1) does not apply to an arrangement which allows an employee to perform a function if the question of whether the employee is a fit and proper person to perform the function is reserved under any of the single market directives or the emission allowance auctioning regulation to an authority in a country or territory outside the United Kingdom.
- (8) In this section—
- “controlled function” has the meaning given by section 59(3);
- [^{F7}“customer”, in relation to an authorised person, means a person who is using, or who is or may be contemplating using, any of the services provided by the authorised person;]
- [^{F7}“customer”—
- (a) in relation to an authorised person, means a person who is using, or who is or may be contemplating using, any of the services provided by the authorised person; and
- (b) in relation to an authorised person carrying on a regulated claims management activity, also means (so far as not included in paragraph (a)) a person who has or may have a claim within the meaning of section 419A in respect of which the authorised person is carrying on a regulated claims management activity.]
- [^{F8}“relevant PRA-authorised person” means a PRA-authorised person that is a relevant authorised person.]
- (9) In this section any reference to an employee of a person (“A”) includes a reference to a person who—
- (a) personally provides, or is under an obligation personally to provide, services to A under an arrangement made between A and the person providing the services or another person, and
- (b) is subject to (or to the right of) supervision, direction or control by A as to the manner in which those services are provided.
- (10) [^{F9}For the meaning of “relevant authorised person”, see section 71A.]]

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Textual Amendments

- F1** Ss. 63E, 63F inserted (25.7.2014 for specified purposes, 7.3.2016 for the insertion of s. 63F otherwise, 7.3.2017 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 29, 148\(5\)](#); S.I. 2014/1819, [art. 2\(2\)\(b\)](#); S.I. 2015/490, [art. 2\(1\)\(a\)\(2\)](#) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F2** Word in s. 63E heading omitted (13.9.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 10.12.2019 for specified purposes, 31.3.2021 for specified purposes) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 4 para. 11\(2\)](#); S.I. 2018/990, [reg. 2\(1\)\(2\)\(4\)](#) (with regs. 3-6); S.I. 2019/1136, [reg. 2\(2\)\(3\)\(6\)](#) (with regs. 3, 7)
- F3** Word in s. 63E(1) substituted (13.9.2018 for specified purposes) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 4 para. 11\(3\)](#); S.I. 2018/990, [reg. 2\(1\)\(2\)](#) (with regs. 3-6)
- F4** Word in s. 63E(3) substituted (13.9.2018 for specified purposes) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 4 para. 11\(4\)](#); S.I. 2018/990, [reg. 2\(1\)\(2\)](#) (with regs. 3-6)
- F5** Word in s. 63E(4) omitted (13.9.2018 for specified purposes) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 4 para. 11\(5\)](#); S.I. 2018/990, [reg. 2\(1\)\(2\)](#) (with regs. 3-6)
- F6** Word in s. 63E(6)(b) omitted (13.9.2018 for specified purposes) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 4 para. 11\(6\)](#); S.I. 2018/990, [reg. 2\(1\)\(2\)](#) (with regs. 3-6)
- F7** Words in s. 63E(8) substituted (E.W.S.) (29.11.2018 for specified purposes) by [The Financial Services and Markets Act 2000 \(Claims Management Activity\) Order 2018 \(S.I. 2018/1253\)](#), [arts. 1\(2\)\(3\)](#), [91\(4\)](#)
- F8** Words in s. 63E(8) omitted (13.9.2018 for specified purposes) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 4 para. 11\(7\)](#); S.I. 2018/990, [reg. 2\(1\)\(2\)](#) (with regs. 3-6)
- F9** S. 63E(10) omitted (13.9.2018 for specified purposes) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 4 para. 11\(8\)](#); S.I. 2018/990, [reg. 2\(1\)\(2\)](#) (with regs. 3-6)

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