

FINANCIAL SERVICES ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Remuneration of executives of authorised persons

Section 6: Remuneration rules made by FSA

New section 139A: General rules about remuneration

72. *Subsection (1)* imposes a duty on the FSA to make rules requiring authorised persons under FSMA, or a class of authorised persons identified in FSA rules, to have and implement a remuneration policy.
73. *Subsection (2)* defines what a “remuneration policy” is for the purposes of this section. It also lists the types of person that may be included within the scope of the authorised person’s remuneration policy. They include officers, employees and any other persons of a description specified in the FSA rules.
74. *Subsection (3)* obliges the FSA to ensure, through its rules, that remuneration policies required by the rules are consistent with the effective management of risks and the Financial Stability Boards’ Principles for Sound Compensation Practices Implementation Standards.
75. *Subsection (4)* means that in making rules about remuneration the FSA must have regard to any other relevant international standards about remuneration which are in force.
76. *Subsection (5)* gives the Treasury power to direct the FSA to consider whether the remuneration plans of those authorised persons described or listed in the direction comply with the requirements the FSA have imposed in relation to remuneration policies. Under *subsection (6)* the FSA must be consulted before the Treasury make such a direction.
77. *Subsection (7)* provides that where the FSA considers that a remuneration policy fails to meet these requirements, the FSA must take such steps as it considers appropriate to deal with the failure. *Subsection (8)* makes clear that the steps the FSA may take include requiring the revision of the relevant remuneration policy.
78. *Subsection (9)* provides that FSA rules may impose specific prohibitions on the way in which a person may be remunerated. They may provide that any provision of a remuneration contract which contravenes such a prohibition is void and so unenforceable, and make provision for the recovery of any payment which may have been made under such a provision.
79. *Subsection (10)* limits the FSA’s power to impose such prohibitions by requiring that it may only be used to ensure consistency with the matters mentioned there.
80. *Subsection (11)* clarifies that a rule made by the FSA under *subsection (9)* which provides that a contractual provision which contravenes a prohibition on remuneration is void will not affect any provision contained in an agreement which was made before

*These notes refer to the Financial Services Act 2010
(c.28) which received Royal Assent on 8 April 2010*

the date the rules containing the prohibition were made. Only subsequent amendments to pre-existing contracts, and contracts made after that date, will be affected.

81. *Subsection (12)* defines terms used in this section.
82. *Subsection (13)* means that the references to “the Implementation Standards” or “international standards” in this section are references to standards that are currently in force.