

## SCHEDULES

### SCHEDULE 12

#### AMENDMENTS OF PARTS 11 AND 23 OF FSMA 2000

##### PART 1

###### PART 11 OF FSMA 2000: INFORMATION GATHERING AND INVESTIGATIONS

5 For section 166 (reports by skilled persons) substitute—

###### “166 Reports by skilled persons

- (1) This section applies where either regulator has required or could require a person to whom subsection (2) applies (“the person concerned”) to provide information or produce documents with respect to any matter (“the matter concerned”).
- (2) This subsection applies to—
  - (a) an authorised person (“A”),
  - (b) any other member of A's group,
  - (c) a partnership of which A is a member, or
  - (d) a person who has at any relevant time been a person falling within paragraph (a), (b) or (c),who is, or was at the relevant time, carrying on a business.
- (3) The regulator mentioned in subsection (1) may either—
  - (a) by notice in writing given to the person concerned, require the person concerned to provide the regulator with a report on the matter concerned, or
  - (b) itself appoint a person to provide the regulator with a report on the matter concerned.
- (4) When acting under subsection (3)(a), the regulator may require the report to be in such form as may be specified in the notice.
- (5) The regulator must give notice of an appointment under subsection (3)(b) to the person concerned.
- (6) The person appointed to make a report—
  - (a) must be a person appearing to the regulator to have the skills necessary to make a report on the matter concerned, and
  - (b) where the appointment is to be made by the person concerned, must be a person nominated or approved by the regulator.
- (7) It is the duty of—
  - (a) the person concerned, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) any person who is providing (or who has at any time provided) services to the person concerned in relation to the matter concerned, to give the person appointed to prepare a report all such assistance as the appointed person may reasonably require.
- (8) The obligation imposed by subsection (7) is enforceable, on the application of the regulator in question, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.
- (9) A regulator may make rules providing for expenses incurred by it in relation to an appointment under subsection (3)(b) to be payable as a fee by the person concerned.
- (10) The powers conferred by this section may also be exercised by the FCA in relation to a person to whom subsection (11) applies, (and references to the person concerned are to be read accordingly).
- (11) This subsection applies to—
  - (a) a recognised investment exchange (“A”),
  - (b) any other member of A's group,
  - (c) a partnership of which A is a member, or
  - (d) a person who has at any time been a person falling within paragraph (a), (b) or (c),who is, or was at the relevant time, carrying on a business.”