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SCHEDULES

SCHEDULE 9

DISCIPLINE AND ENFORCEMENT

PART 5

INJUNCTIONS AND RESTITUTION

- 19 (1) Section 380 (injunctions) is amended as follows.
- (2) In subsections (1) to (3), for “Authority” substitute “ appropriate regulator ”.
- (3) In subsection (6)(a)—
- (a) in the opening words, for “Authority” substitute “ appropriate regulator ”,
 - (b) for sub-paragraph (i) (but not the “or” following it) substitute—
 - “(i) which is imposed by or under this Act or by a qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order”, and
 - (c) in sub-paragraph (ii), for the words from “which the Authority” to the end substitute “ mentioned in section 402(1) ”.
- (4) In subsection (7), omit paragraph (a) (and the “and” at the end of it).
- (5) After subsection (7) insert—
- “(8) The PRA is the “appropriate regulator” in the case of a contravention of—
 - (a) a requirement that is imposed by the PRA under any provision of this Act,
 - (b) a requirement under section 56(6) where the authorised person concerned is a PRA-authorised person and the prohibition order concerned is made by the PRA, or
 - (c) a requirement under section 59(1) or (2) where the authorised person concerned is a PRA-authorised person and the approval concerned falls to be given by the PRA.
- (9) In the case of a contravention of a requirement that is imposed by a qualifying EU provision, “the appropriate regulator” is whichever of the PRA or the FCA (or both) is specified by the Treasury by order in relation to the qualifying EU provision for the purposes of this section.
- (10) In the case of a contravention of a requirement where the contravention constitutes an offence under this Act, the “appropriate regulator” is whichever of the PRA or the FCA has power to prosecute the offence (see section 401).

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(11) The FCA is the “appropriate regulator” in the case of a contravention of any other requirement.

(12) The Treasury may by order amend the definition of “appropriate regulator”.

Commencement Information

II Sch. 9 para. 19 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2

VALID FROM 01/04/2013

20 (1) Section 381 (injunctions in case of market abuse) is amended as follows.

(2) In subsections (1) to (3), for “Authority” substitute “ FCA ”.

(3) In subsection (4), after “The court” insert “ may ”.

21 (1) Section 382 (restitution orders) is amended as follows.

(2) In subsection (1), for “Authority” substitute “ appropriate regulator ”.

(3) In subsections (2) and (3), for “Authority” substitute “ regulator concerned ”.

(4) In subsection (7), for “Authority” substitute “ appropriate regulator ”.

(5) In subsection (9)(a)—

(a) in the opening words, for “Authority” substitute “ appropriate regulator ”,

(b) for sub-paragraph (i) (but not the “or” following it) substitute—

“(i) which is imposed by or under this Act or by a qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order”, and

(c) in sub-paragraph (ii), for the words from “which the Authority” to the end substitute “ mentioned in section 402(1) ”.

(6) In subsection (10), omit paragraph (a) (and the “and” at the end of it).

(7) After subsection (10) insert—

“(11) The PRA is the “appropriate regulator” in the case of a contravention of—

(a) a requirement that is imposed by the PRA under any provision of this Act,

(b) a requirement under section 56(6) where the authorised person concerned is a PRA-authorised person and the prohibition order concerned is made by the PRA, or

(c) a requirement under section 59(1) or (2) where the authorised person concerned is a PRA-authorised person and the approval concerned falls to be given by the PRA.

(12) In the case of a contravention of a requirement that is imposed by a qualifying EU provision, “the appropriate regulator” is whichever of the PRA or the FCA (or both) is specified by the Treasury by order in relation to the qualifying EU provision for the purposes of this section.

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- (13) In the case of a contravention of a requirement where the contravention constitutes an offence under this Act, the “appropriate regulator” is the regulator which has power to prosecute the offence (see section 401).
- (14) The FCA is the “appropriate regulator” in the case of a contravention of any other requirement.
- (15) The Treasury may by order amend the definition of “appropriate regulator”.

Commencement Information

I2 Sch. 9 para. 21 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2

VALID FROM 01/04/2013

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| 22 | In section 383(1), (4), (5) and (9) (restitution orders in case of market abuse), for “ Authority” substitute “ FCA ”. |
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- 23 (1) Section 384 (power of Authority to require restitution) is amended as follows.
 - (2) In subsection (1)—
 - (a) for “The Authority” substitute “ The appropriate regulator ”, and
 - (b) after “authorised person” insert “ or recognised investment exchange ”.
 - (3) In subsections (2) and (4), for “Authority” substitute “ FCA ”.
 - (4) In subsection (5)—
 - (a) for “Authority”, in the first place, substitute “ regulator exercising the power (“the regulator concerned”) ”, and
 - (b) for “Authority”, in each of the other places, substitute “ regulator concerned ”.
 - (5) In subsection (6), for “Authority” substitute “ regulator concerned ”.
 - (6) In subsection (7)—
 - (a) in paragraph (a), for the words from “any directly applicable” to “auctioning regulation” substitute “ a qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order ”, and
 - (b) in paragraph (b), for the words from “in relation to which” to the end substitute “ mentioned in section 402(1) ”.
 - (7) Omit subsection (8).
 - (8) After subsection (8) insert—
 - “(9) The PRA is the “appropriate regulator” in the case of a contravention of—
 - (a) a requirement that is imposed by the PRA under any provision of this Act,
 - (b) a requirement under section 56(6) where the authorised person concerned is a PRA-authorised person and the prohibition order concerned is made by the PRA, or

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- (c) a requirement under section 59(1) or (2) where the authorised person concerned is a PRA-authorised person and the approval concerned falls to be given by the PRA.
- (10) In the case of a contravention of a requirement that is imposed by a qualifying EU provision, “the appropriate regulator” is whichever of the PRA or the FCA (or both) is specified by the Treasury by order in relation to the qualifying EU provision for the purposes of this section.
- (11) In the case of a contravention of a requirement where the contravention constitutes an offence under this Act, the “appropriate regulator” is the regulator which has power to prosecute the offence (see section 401).
- (12) The FCA is the “appropriate regulator” in the case of a contravention of any other requirement.
- (13) The Treasury may by order amend the definition of “appropriate regulator”.
- (9) In the heading, for “Authority” substitute “ FCA or PRA ”.
- (10) In the italic heading before section 384, for “Authority” substitute “ FCA or PRA ”.

Commencement Information

I3 [Sch. 9 para. 23](#) in force at 24.1.2013 for specified purposes by [S.I. 2013/113](#), [art. 2\(1\)\(b\)](#), [Sch. Pt. 2](#)

VALID FROM 01/04/2013

- 24 (1) Section 385 (warning notices) is amended as follows.
- (2) In subsection (1), for “the Authority” substitute “ a regulator ”.
- (3) In subsection (2), for “the Authority” substitute “ the regulator ”.

VALID FROM 01/04/2013

- 25 In section 386(1) and (3) (decision notices), for “Authority” substitute “ regulator ”.

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