



Financial Services Act 2021

2021 CHAPTER 22

Access to financial services markets

25 Individually recognised overseas collective investment schemes

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) Chapter 5 of Part 17 (recognised overseas schemes) is amended in accordance with subsections (3) to (5).
- (3) In section 272 (individually recognised overseas schemes)—
 - (a) in subsection (1)—
 - (i) in paragraph (a) omit the “and” at the end,
 - (ii) before paragraph (d) insert—

“(ca) does not have the benefit of section 271A, and”, and
 - (iii) in paragraph (d), for “the following provisions of this section” substitute “ subsections (2) to (15) ”,
 - (b) after that subsection insert—

“(1A) For the purposes of subsection (1)(ca), a collective investment scheme has the benefit of section 271A if—

 - (a) it is authorised under the law of a country or territory which is for the time being approved by regulations under section 271A, and
 - (b) it falls within a description of schemes specified in the regulations.”, and
 - (c) in subsection (5)(b) omit “, or could be,”.
- (4) In section 277 (requirement to notify the FCA of proposed alteration to recognised scheme)—
 - (a) in subsection (1), at the end insert “ which, if made, would be a material alteration ”,
 - (b) in subsection (3) omit “At least one month”,
 - (c) after that subsection insert—

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“(3A) A notice under subsection (3) must be given—

- (a) at least one month before the proposed replacement, or
- (b) if that is not reasonably practicable, as soon as is reasonably practicable in the period of one month before the proposed replacement.

(3B) The operator of such a scheme must give written notice to the FCA, as soon as reasonably practicable, of any change to—

- (a) the name or address of the operator of the scheme,
- (b) the name or address of any trustee or depositary of the scheme,
- (c) the name or address of any representative of the operator in the United Kingdom, and
- (d) the address of the place in the United Kingdom for service of notices, or other documents, required or authorised to be served on the operator under this Act.”, and

(d) after subsection (5) insert—

“(6) The FCA may make rules specifying when a proposed alteration is a material alteration for the purposes of subsection (1).”

(5) After section 282 insert—

“282A Obligations on operator where recognition is revoked or suspended

- (1) This section applies where—
 - (a) the FCA gives a decision notice under section 280(2) in relation to a scheme recognised under section 272, or
 - (b) a direction given by the FCA under section 281(2) in relation to such a scheme takes effect.
- (2) The operator of the scheme must notify such persons as the FCA may direct that the FCA has revoked an order under section 272 for recognition of the scheme or given a direction under section 281 in relation to the scheme (as applicable).
- (3) A notification under subsection (2) that relates to a direction under section 281 must set out the terms of the direction.
- (4) A notification under subsection (2) must—
 - (a) contain such information as the FCA may direct, and
 - (b) be made in such form and manner as the FCA may direct.
- (5) Different directions may be given under subsection (2) or (4) in relation to—
 - (a) different schemes or different descriptions of schemes;
 - (b) different persons or descriptions of persons to whom a notification under subsection (2) must be given.

282B Public censure

- (1) This section applies where the FCA considers that—

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- (a) rules made under section 278 have been contravened,
 - (b) the operator of a scheme recognised under section 272 has contravened section 277, 277A or 282A, or
 - (c) the operator of a scheme recognised under section 272 has contravened a rule made, or a requirement imposed, under section 283.
- (2) The FCA may publish a statement to that effect.
- (3) Where the FCA proposes to publish a statement under subsection (2) in relation to a scheme or the operator of a scheme, it must give the operator a warning notice setting out the terms of the statement.
- (4) If the FCA decides to publish the statement—
 - (a) it must give the operator, without delay, a decision notice setting out the terms of the statement, and
 - (b) the operator may refer the matter to the Tribunal.
- (5) After a statement under subsection (2) is published, the FCA must send a copy of it to the operator and to any person to whom a copy of the decision notice was given under section 393(4).

282C Recognition of parts of schemes under section 272

- (1) Section 272(1) applies in relation to a part of a collective investment scheme as it applies in relation to such a scheme.
- (2) Accordingly, the following include a part of a scheme recognised under section 272—
 - (a) the reference to a scheme recognised under section 272 in the definition of “recognised scheme” in section 237(3), and
 - (b) other references to such a scheme (however expressed) in or in provision made under this Part of this Act (unless the contrary intention appears).
- (3) Provisions of or made under this Part of this Act have effect in relation to parts of schemes recognised, or seeking recognition, under section 272 with appropriate modifications.
- (4) The Treasury may by regulations—
 - (a) make provision about what are, or are not, appropriate modifications for the purposes of subsection (3);
 - (b) make provision so that a relevant enactment has effect in relation to parts of schemes recognised, or seeking recognition, under section 272 with such modifications as the Treasury consider appropriate;
 - (c) make provision so that a relevant enactment does not have effect in relation to such parts of schemes.
- (5) Regulations under subsection (4)(b) or (c) may amend, repeal or revoke an enactment.
- (6) In this section—

“enactment” has the same meaning as in section 271E;

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“relevant enactment” means an enactment passed or made before the day on which subsection (1) comes into force that makes provision in relation to collective investment schemes recognised, or seeking recognition, under section 272.”

- (6) In section 237(3), in the definition of “a recognised scheme”, at the end insert “ (and see also section 282C) ”.
- (7) In section 392 (application of third party rights to notices)—
 - (a) in paragraph (a), after “280(1),” insert “ 282B(3), ”, and
 - (b) in paragraph (b), after “280(2),” insert “ 282B(4), ”.
- (8) In section 429(2) (regulations subject to affirmative procedure), before “284A” insert “ 282C, ”.

Commencement Information

- I1** S. 25(1)-(3)(4)(b)-(d)(5)-(8) in force at 23.2.2022 by [S.I. 2022/163](#), **reg. 2(b)**
- I2** S. 25(4)(a) in force at 1.1.2023 by [S.I. 2022/163](#), **reg. 3**

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2021/671, reg. 5 by [S.I. 2021/1163 reg. 2](#)