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## STATUTORY INSTRUMENTS

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# 2013 No. 504

## The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013

### PART 5

#### Designation of competent authorities and powers of FCA

##### **Penalties [<sup>F1</sup> and statements]**

9.—(1) If the FCA considers that—

- (a) a financial counterparty;
- (b) a non-financial counterparty; or
- (c) any other person,

has contravened a relevant requirement imposed on it, the FCA may [<sup>F2</sup>publish a statement to that effect or] impose on it a penalty, in respect of the contravention, of such amount as it considers appropriate.

(2) If the FCA considers that—

- (a) a financial counterparty;
- (b) a non-financial counterparty; or
- (c) any other person,

has in purported compliance with a requirement imposed on it under regulation 7 or 8 knowingly or recklessly given the FCA information which is false or misleading in a material particular, the FCA may [<sup>F3</sup>publish a statement to that effect or] impose on it a penalty of such amount as it considers appropriate.

(3) Where the FCA has imposed a penalty under paragraph (1) or (2), it must in addition publish a statement to that effect unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

(4) A penalty under paragraph (1) or (2) is payable to the FCA.

(5) The FCA must in respect of each of its financial years pay to the Treasury any amounts received by it during the year by way of penalties imposed under this regulation.

(6) The Treasury may give directions to the FCA as to how the FCA is to comply with its duty under paragraph (5).

(7) The directions may in particular—

- (a) specify the time when any payment is required to be made to the Treasury, or
- (b) require the FCA to provide the Treasury at specified times with information relating to penalties that the FCA has imposed under this regulation.

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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(8) The Treasury must pay into the Consolidated Fund any sums received by them under this regulation.

(9) This regulation does not apply to an authorised person except in so far as it relates to a contravention of regulation 8.

(10) In this regulation, a “relevant requirement” means a requirement imposed—

- (a) by or under the EMIR regulation if it is enforceable by the FCA pursuant to regulation 6 [<sup>F4</sup>(but not including a requirement enforceable by the FCA pursuant to paragraph (6)(a) or (b) of that regulation)];
- (b) under regulation 7 or 8.

- F1** Words in [reg. 9](#) heading inserted (26.8.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) \(No. 2\) Regulations 2013](#) (S.I. 2013/1908), regs. 1(3)(c), [4\(4\)\(a\)](#)
- F2** Words in [reg. 9\(1\)](#) inserted (26.8.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) \(No. 2\) Regulations 2013](#) (S.I. 2013/1908), regs. 1(3)(c), [4\(4\)\(b\)](#)
- F3** Words in [reg. 9\(2\)](#) inserted (26.8.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) \(No. 2\) Regulations 2013](#) (S.I. 2013/1908), regs. 1(3)(c), [4\(4\)\(c\)](#)
- F4** Words in [reg. 9\(10\)\(a\)](#) inserted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/335), regs. 1(1), [6](#) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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#### Commencement Information

- I1** Reg. 9 in force at 1.4.2013 in accordance with reg. 1(2)

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**Changes and effects yet to be applied to :**

- Regulations power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)