
STATUTORY INSTRUMENTS

2017 No. 699

The Data Reporting Services Regulations 2017

PART 4

Administration and enforcement

CHAPTER 2

Application of the Act for the purposes of the Regulations

Application of Part 11 of the Act (information gathering and investigations)

33.—(1) Part 11 of the Act ^{F1} (information gathering and investigations) applies with respect to the discharge by the FCA of its functions under these Regulations as it applies with respect to the discharge by the FCA of its functions under the Act, with the following modifications.

(2) Part 11 of the Act applies as if—

- (a) each reference to the Act included a reference to these Regulations;
- (b) each reference to a section or Part of, or Schedule to, the Act were a reference to that section, Part or Schedule as applied by these Regulations;
- (c) each reference to an authorised person were a reference to a data reporting service provider;
- (d) each reference to the PRA were omitted;
- (e) each reference to a regulator were a reference to the FCA, and each reference to either regulator were a reference to the FCA only.

(3) Section 165 of the Act (regulators' power to require information: authorised persons etc.) applies as if subsections (4)(b), (7)(b) to (e) and (8A) were omitted.

(4) Sections 165A (PRA's power to require information: financial stability), 165B (safeguards etc. in relation to exercise of power under section 165A) and 165C (orders under section 165A(2)(d)) of the Act do not apply.

(5) Section 166 of the Act (reports by skilled persons) applies as if subsections (10) and (11) were omitted.

(6) Section 166A of the Act (appointment of skilled person to collect and update information) applies as if—

(a) for subsection (1) there were substituted—

“(1) This section applies if the FCA considers that a person has contravened a requirement imposed by or under the Data Reporting Services Regulations 2017 to collect, and keep up to date, information of a description specified in those Regulations.”;

(b) subsection (10) were omitted.

(7) Section 167 of the Act (appointment of persons to carry out general investigations) applies as if—

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- (a) for subsection (1) there were substituted—
 - “(1) If it appears to the FCA that there is good reason for doing so, the FCA may appoint one or more competent persons to conduct an investigation on its behalf into—
 - (a) the nature, conduct or state of the business of a person in respect of whom a requirement is imposed by or under the Data Reporting Services Regulations 2017 (“a person subject to the 2017 Regulations”);
 - (b) a particular aspect of that business; or
 - (c) the ownership or control of a person subject to the 2017 Regulations.”;
 - (b) subsections (2)(c) and (3A) were omitted;
 - (c) for subsection (4) there were substituted—
 - “(4) The power conferred by this section may be exercised in relation to a person who was formerly a person subject to the 2017 Regulations but only in relation to—
 - (a) business carried on when the person was a person subject to the 2017 Regulations; or
 - (b) the ownership or control of a person who was formerly a person subject to the 2017 Regulations at any time when the person was a person subject to the 2017 Regulations.”;
 - (d) subsections (5A) and (6) were omitted.
- (8) Section 168 of the Act (appointment of persons to carry out investigations in particular cases) applies as if—
- (a) for subsection (1) there were substituted—
 - “(1) Subsection (3) applies if it appears to the FCA that there are circumstances suggesting that—
 - (a) a data reporting service provider may have contravened a requirement imposed by or under the Data Reporting Services Regulations 2017;
 - (b) an authorised person who is not a data reporting service provider may have contravened a requirement imposed by or under those Regulations;
 - (c) a recognised body or a recognised CSD which is not a data reporting service provider may have contravened a requirement imposed by or under those Regulations;
 - (d) a member of the management body of a person referred to in paragraph (a), (b) or (c) or another member of the senior management of a person referred to in paragraph (a), (b) or (c) may be responsible for the contravention of a requirement imposed by or under those Regulations; or
 - (e) a person may be guilty of an offence under those Regulations or under this Act as applied by those Regulations.”;
 - (b) subsections (2), (4) and (5) were omitted;
 - (c) for subsection (6) there were substituted—
 - “(6) “Investigating authority” means the FCA.”.
- (9) Section 169 of the Act (investigations etc. in support of overseas regulator) applies as if—
- (a) subsection (2A) were omitted;
 - (b) for subsection (13) there were substituted—

“(13) “Overseas regulator” means an authority in a country or territory outside the United Kingdom which has functions corresponding to those of the FCA under the Data Reporting Services Regulations 2017.”.

(10) Section 169A of the Act (support of overseas regulator with respect to financial stability) does not apply.

(11) Section 170 of the Act (investigations: general) applies as if—

- (a) each reference to the investigating authority were a reference to the FCA;
- (b) in subsection (1) “or (5)” were omitted;
- (c) for subsection (3) there were substituted—

“(3) Subsections (2) and (9) do not apply if the investigator is appointed as a result of section 168(1) and the FCA believes that the notice required by subsection (2) or (9) would be likely to result in the investigation being frustrated.”;

- (d) subsection (10) were omitted.

(12) Section 171 of the Act (powers of persons appointed under section 167) applies as if subsections (3A) and (7) were omitted;

(13) Section 172 of the Act (additional power of persons appointed as a result of section 168(1) or (4)) applies as if in the heading and in subsection (4) “or (4)” were omitted.

(14) Section 173 of the Act (powers of persons appointed as a result of section 168(2)) does not apply.

(15) Section 174 of the Act (admissibility of statements made to investigators) applies as if—

- (a) in subsection (2) “or in proceedings in relation to action to be taken against that person under section 123 to which this section applies” were omitted;
- (b) in subsection (3)(a) for “398” substitute “ regulation 29 of the Data Reporting Services Regulations 2017 ”;
- (c) subsection (3A) were omitted;
- (d) in subsection (4) the words from “or (5),” to the end were omitted;
- (e) in subsection (5) “, 173” were omitted.

(16) Section 175 of the Act (information and documents: supplemental provisions) applies as if in subsection (8) “or (5)” were omitted.

(17) Section 176 of the Act (entry of premises under warrant) applies as if—

- (a) for subsection (1) there were substituted—

“(1) A justice of the peace may issue a warrant under this section if satisfied on information on oath given by or on behalf of the FCA or an investigator that there are reasonable grounds for believing that the first, second or third set of conditions is satisfied.”;

- (b) in subsection (3)(a) “or an appointed representative” were omitted;
- (c) in subsection (10) “or (5)” were omitted;
- (d) in subsection (11)—
 - (i) in paragraph (a) “87C, 87J,” and “,165A, 169A” were omitted;
 - (ii) in paragraph (b) “, 173” were omitted.

F1 Part 11 was amended by paragraph 54 of Schedule 26 to the [Criminal Justice Act 2003 \(c.44\)](#), [paragraph 33](#) of Schedule 7 to the [Counter Terrorism Act 2008 \(c.28\)](#), [section 18](#) of and Schedule 2 to the [Financial Services Act 2010 \(c.28\)](#), [Schedule 12](#) to and paragraph 8 of Schedule 18 to the

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Financial Services Act 2012, paragraphs 36 and 37 of Schedule 2 to the [Bank of England and Financial Services Act 2016 \(c.14\)](#), **paragraph 9** of Schedule 2 to the [Investigatory Powers Act 2016 \(c.25\)](#), [S.I. 2001/1090](#), [2005/1433](#), [2007/126](#), [2011/1043](#), [2012/2554](#), [2013/1773](#), [2015/575](#) and [2016/680](#). There are other amendments but none is relevant.

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Changes and effects yet to be applied to :

- Regulations power to amend conferred by [2021 c. 22 s. 23](#)
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)