
STATUTORY INSTRUMENTS

2018 No. 1253

**The Financial Services and Markets Act 2000
(Claims Management Activity) Order 2018**

PART 3

Transitional provisions

CHAPTER 5

Temporary Permission

Application of the 2000 Act to persons with a temporary permission

83.—(1) In this article a reference to a numbered section is a reference to the section so numbered in the 2000 Act.

(2) This article applies in relation to a person (“A”) who has a temporary permission to carry on an activity referred to in article 80(4) (“temporary permission”).

(3) A’s temporary permission does not have effect as a Part 4A permission for the purposes of—

- (a) section 38(2) (exemption orders);
- (b) section 39(1C)(a) (exemption of appointed representatives);
- (c) section 55A(3) (application for permission).

(4) For the purposes of section 327(7) and (9)(1) (exemption from the general prohibition), A is not to be treated as carrying on a regulated claims management activity where A carries on that activity pursuant to A’s temporary permission.

(5) For the purposes of section 21(2) (restrictions on financial promotion), if A does not have permission other than a temporary permission, A may only approve the content of a communication if the communication invites or induces a person to enter into (or offer to enter into) an agreement in respect of a regulated activity for which A has temporary permission.

(6) For the purposes of section 39 (exemption of appointed representatives), A may be an appointed representative in relation to an activity which A does not have temporary permission to carry on.

(7) Where A applies to the FCA—

- (a) under section 55A for permission to carry on a regulated activity which is not a regulated claims management activity; or
- (b) under section 55H to vary A’s Part 4A permission by adding to the activities to which the permission relates a regulated activity which is not a regulated claims management activity,

the application may be treated by the FCA as relating also to some or all of the regulated activities for which A has temporary permission.

(8) If the FCA treats the application as relating to some or all of the regulated activities for which A has temporary permission, article 82(10) does not apply in relation to the application.

(9) The duty imposed by section 55B(3) (satisfaction of threshold conditions) does not apply where the FCA exercises its power in relation to A under—

- (a) section 55J(2) (variation or cancellation on initiative of regulator);
- (b) section 55H (variation by FCA at request of authorised person) to remove a regulated activity from those for which A has temporary permission;
- (c) section 55L (imposition of requirements by FCA).

(10) Where, immediately before 1st April 2019, A is not a 2000 Act authorised person, A is not to be treated, by virtue of article 80(5), as a 2000 Act authorised person for the purposes of Part 12 of the 2000 Act (control over authorised persons).

(11) For the purposes of the compensation scheme established under section 213, a claim made against A in connection with any activity which A's temporary permission permits A to carry on is to be treated as if it were not made in connection with regulated activities carried on by A.

(12) The activity which A's temporary permission permits A to carry on is to be treated as if it were not a regulated activity for the purposes of—

- (a) construing the reference to the only regulated activities that a person carries on, or seeks to carry on, which is contained in paragraphs 2C(1A), 2D(3A) and 2F(3) of Schedule 6 to the 2000 Act (threshold conditions: Part 4A permission: authorised persons who are not PRA-authorised persons); and
- (b) article 6A(1)(b) of the Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009(3).

(2) Section 55J was inserted by the Financial Services Act 2012 (c. 21), section 11(2) and amended by S.I. 2013/1773 and 3115, 2015/575, 1882 and 910, 2016/225 and 680, and 2018/135.

(3) S.I. 2009/774.