

## SCHEDULE 1

Regulation 27

### Application and modification of the Act and secondary legislation

#### Disciplinary powers

1.—(1) Sections 66 to 70 of the Act<sup>(1)</sup> apply in respect of a contravention of a relevant requirement imposed by or under these Regulations, as they apply in respect of a contravention of a relevant requirement imposed by or under the Act, with modifications set out in this paragraph.

(2) Section 66A (misconduct: action by the FCA) applies as if in subsection (4) there were inserted—

“(ac) imposed by or under the Securitisation Regulations 2018,”.

(3) Section 66B (misconduct: action by the PRA) applies as if in subsection (4) there were inserted—

“(aa) imposed by or under the Securitisation Regulations 2018,”.

#### The Tribunal

2.—(1) Part 9 of the Act<sup>(2)</sup> (hearings and appeals) applies in respect of references made to the Tribunal under these Regulations and the Act as applied by these Regulations as it applies in respect of references made to the Tribunal under the Act in respect of a decision of the FCA or PRA, with the modifications set out in this paragraph.

(2) Section 133<sup>(3)</sup> of the Act (proceedings before Tribunal: general provision) applies as if—

(a) in subsection (1)<sup>(4)</sup>—

(i) “(whether made under this or any other Act)” were omitted;

(ii) paragraphs (b) and (c) were omitted;

(b) in subsection (2) “, (b) or (c)” were omitted;

(c) for subsection (7A) there were substituted—

“(7A) A reference is a “disciplinary reference” for the purposes of this section if it is in respect of a decision to—

(i) take action under sections 66, 205, 206 or 206A of the Act as applied by the Securitisation Regulations 2018;

(ii) impose a temporary prohibition under regulation 5 of those Regulations;

(iii) publish a statement under regulation 7 of those Regulations; or

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- (1) Section 66 was amended by paragraph 14 to Schedule 5 to the Financial Services Act 2012 (c.21), sections 28 and 32 and paragraph 5 of Schedule 3 to the Financial Services (Banking Reform) Act 2013 (c.33) and section 12 and paragraph 8 of Schedule 2 to the Financial Services Act 2012 (c.28). Section 66A was amended by section 32 of the Financial Services (Banking Reform) Act 2013 (c.33), section 25 of and paragraph 16 of Schedule 4 to the Bank of England and Financial Services Act 2016 (c.14), S.I. 2015/1864, 2016/225 and 2016/568. Section 66B was amended by section 32 of the Financial Services (Banking Reform) Act 2013 (c.33), section 25 of and paragraph 17 of Schedule 4 to the Bank of England and Financial Services Act 2016 (c.14). Section 67 was amended by paragraph 15 of Schedule 5 to the Financial Services Act 2012 (c.21), paragraph 9 of Schedule 2 to the Financial Services Act 2010 (c.28) and paragraph 6 of Schedule 3 to the Financial Services (Banking Reform) Act 2013 (c.33). Section 68 was amended by paragraph 16 of Schedule 5 to the Financial Services Act 2012 (c.21). Section 69 was amended by paragraph 17 of Schedule 5 to the Financial Services Act 2012 (c.21), paragraph 10 of Schedule 2 to the Financial Services Act 2010 (c.28), and paragraph 7 of Schedule 3 to the Financial Services (Banking Reform) Act 2013 (c.33). Section 70 was amended by paragraph 18 of Schedule 5 to the Financial Services Act 2012 (c.21).
- (2) Part 9 was amended by section 23 of the Financial Services Act 2012 (c.21), section 4 of the Financial Services (Banking Reform) Act 2013, paragraph 83 of Schedule 9 to the Crime and Courts Act 2013 (c.22), S.I. 2010/22, 2013/1388, 2014/3329, 2016/680 and 2017/1064.
- (3) Section 133 was substituted by S.I. 2010/22.
- (4) Subsections (1), (5) and (7A) were amended by section 23 of the Financial Services Act 2012 (c.21).

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(iv) impose a penalty under regulation 8 of those Regulations.”.

(3) Section 133A(5) of the Act (proceedings before Tribunal: decision and supervisory notices, etc.) applies as if for subsection (1)(6) there were substituted—

“(1) In determining in accordance with section 133(5) (as applied by the Securitisation Regulations 2018) a reference made as a result of a decision notice given by the FCA or PRA, the Tribunal may not direct the FCA or PRA to take action which it would not, under the Securitisation Regulations 2018 or the Act as applied by those Regulations, have had power to take when giving the notice.”.

(4) Section 133B(7) (offences) applies as if in subsection (1) paragraphs (b) and (c) were omitted.

### Information gathering and investigations

**3.—**(1) Part 11 of the Act(8) (information gathering and investigations) applies in respect of the FCA’s and the PRA’s functions under these Regulations and the EU Securitisation Regulations 2017 and the Act as applied by these Regulations, with the modifications set out in this paragraph.

(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 included a reference to a securitisation regulation unauthorised person.

(3) Section 167 of the Act(9) (appointment of persons to carry out general investigations) applies as if—

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

“(1) If it appears to the FCA or the PRA that there is good reason for doing so, the FCA or the PRA 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 securitisation regulation unauthorised person, as defined in regulation 2(1) of the Securitisation Regulations 2018;
- (b) a particular aspect of that business; or
- (c) the ownership or control of a securitisation regulation unauthorised person.”;

(b) in subsection (5) for “regulated activities” there were substituted “the activities subject to regulation pursuant to the Securitisation Regulations 2018 and the EU Securitisation Regulation 2017”.

(5) Section 133A was substituted by [S.I. 2010/22](#).

(6) Subsection (1) was amended by section 23 of the Financial Services Act 2012.

(7) Section 133B was substituted by [S.I. 2010/22](#). Subsection (1) was amended by section 23 of the Financial Services Act 2012.

(8) 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 Financial Services Act 2012 (c.21), 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.

(9) Section 167 was amended by paragraph 7 of Schedule 12 to the Financial Services and Markets Act 2000 (c.8), [S.I. 2007/126](#) and [S.I. 2015/575](#).

(4) Section 168 of the Act(**10**) (appointment of persons to carry out investigations in particular cases) applies as if—

(a) in subsection (1) for paragraph (b) there were substituted—

“(b) a person may be guilty of an offence under this Act as applied by the Securitisation Regulations 2018.”;

(b) subsection (2) were omitted;

(c) in subsection (4)(**11**) after paragraph (k) there were inserted—

“(l) a person may have contravened requirements imposed under the Securitisation Regulations 2018 or the Act as applied by the Securitisation Regulations 2018.”;

(d) for subsection (6)(**12**) there were substituted—

“(6) “Investigating authority” means the FCA or the PRA.”.

(5) Section 169 of the Act(**13**) (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 or the PRA under the EU Securitisation Regulation 2017 and the Securitisation Regulations 2018.”.

(6) Section 169A of the Act(**14**) (support of overseas regulator with respect to financial stability) does not apply.

(7) Section 170 of the Act(**15**) (investigations: general) applies as if subsection (3)(b) were omitted.

(8) Section 171 of the Act(**16**) (powers of persons appointed under section 167) applies as if subsections (3A) and (7) were omitted.

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

(10) Section 174 of the Act(**17**) (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” were omitted;

(b) subsection (3A) were omitted;

(c) in subsection (4) the words from “, or a person” to the end were omitted;

(d) in subsection (5) “, 173” were omitted.

(11) Section 175 of the Act(**18**) (information and documents: supplemental provisions) applies as if in subsection (8) “(3) or” were omitted.

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(10) Section 168 was amended by [S.I. 2007/126](#), paragraph 33 of Schedule 7 to the Counter-Terrorism Act 2008 ([c.28](#)); Schedule 2 to the Financial Services Act 2010 ([c.28](#)), Schedule 12 to the Financial Services Act 2012 ([c.21](#)), paragraph 11 of Schedule 3 to the Pension Schemes Act 2015 ([c.8](#)) and [S.I. 2016/680](#).

(11) Subsection (4) was amended by paragraph 8 of Schedule 12 to the Financial Services Act 2012 ([c.21](#)), paragraph 33 of Schedule 7 to the Counter-Terrorism Act 2008 ([c.28](#)), paragraph 16 of Schedule 2 to the Financial Services Act 2010 ([c.28](#)), [S.I. 2007/126](#), [2012/2554](#), [2013/1773](#), [2016/225](#), [2016/680](#) and [2017/1255](#).

(12) Subsection (6) was substituted by the Financial Services Act 2012, section 41 and paragraph 8 of Schedule 12.

(13) Section 169 was amended by Schedule 12 to the Financial Services Act 2012 ([c.21](#)); [S.I. 2011/1043](#) and [S.I.2016/680](#).

(14) Section 169A was inserted by section 18(3) of the Financial Services Act 2010 ([c.28](#)) and amended by paragraph 10 of Schedule 12 to the Financial Services Act 2012 ([c.21](#)).

(15) Section 170 was amended by paragraph 11 of Schedule 12 to the Financial Services Act 2012 ([c.21](#)).

(16) Subsections (3A) and (7) were inserted by [S.I. 2007/126](#).

(17) Section 174 was amended by paragraph 12 of Schedule 12 to the Financial Services Act 2012 ([c.21](#)) and [S.I. 2016/680](#).

(18) Section 175 was amended by paragraph 13 of Schedule 12 to the Financial Services Act 2012 ([c.21](#)).

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- (12) Section 176 of the Act<sup>(19)</sup> (entry of premises under a warrant) applies as if—
- (a) in subsection (1) “the Secretary of State,” were omitted;
  - (b) in subsection (3)(a) “or an appointed representative” were omitted;
  - (c) in subsection (11)—
    - (i) in paragraph (a) for “87C, 87J, 165, 165A, 169A” there were substituted “165”;
    - (ii) in paragraph (b) “, 173” were omitted.

#### **Disciplinary powers under Part 14**

4.—(1) Part 14 of the Act (Disciplinary Measures) applies in respect of a contravention of a requirement imposed by or under these Regulations as they apply in respect of a contravention of a requirement imposed by or under the Act, with the modifications set out in this paragraph.

(2) Section 204A<sup>(20)</sup> (meaning of “relevant requirement” and “appropriate regulator”) applies as if—

- (a) in subsection (2) at the end there were inserted—
  - “; or
  - (e) by or under the Securitisation Regulations 2018.”;
- (b) after subsection (3A) there were inserted—
  - “(3B) In the case of a contravention of a requirement that is imposed by or under the Securitisation Regulations 2018, the “appropriate regulator” for the purpose of any provision of this Part is whichever of the PRA or the FCA (or both) is the “appropriate regulator” under those Regulations.”;
- (c) subsection (4), (5) and (6) were omitted.

#### **Restrictions on disclosure of information**

5. Sections 348<sup>(21)</sup> (restrictions on disclosure of confidential information by FCA, PRA etc.), 349<sup>(22)</sup> (exceptions from section 348) and 352 (offences) of the Act<sup>(23)</sup> apply in respect of information received in connection with the FCA’s and the PRA’s functions under these Regulations and under the Act as applied by these Regulations as they apply in respect of information received in connection with the FCA’s and the PRA’s functions under the Act, as if—

- (a) each reference to the Act included a reference to these Regulations;
- (b) each reference to a section or Part of the Act were a reference to that section or Part as applied by these Regulations;
- (c) in section 348(2), for “In this Part” there were substituted “In sections 348, 349 and 352 as applied by the Securitisation Regulations 2018”;
- (d) in section 352—
  - (i) in subsection (1) “or 350(5)” were omitted;
  - (ii) subsection (4) were omitted;

<sup>(19)</sup> Section 176 was amended by paragraphs 14 and 17 of Schedule 12 to the Financial Services Act 2012 (c.21).

<sup>(20)</sup> Section 204A was amended by paragraph 10 of Schedule 9 to the Financial Services Act 2012 (c.21), section 23 of the Bank of England and Financial Services Act 2016 (c.14), S.I. 2013/1773, 2016/225 and 2015/1864.

<sup>(21)</sup> Section 348 was amended by paragraph 26 of Schedule 2 to the Financial Services Act 2010 (c.28), paragraph 18 of Schedule 12 to the Financial Services Act 2012 (c.21), paragraph 5 of Schedule 8 to the Financial Services (Banking Reform) Act 2013 (c.33), paragraph 45 of Schedule 2 to the Bank of England and Financial Services Act 2016 (c.14) and S.I. 2016/1239.

<sup>(22)</sup> Section 349 was amended by section 964 of the Companies Act 2006 (c.46), paragraph 19 of Schedule 12 to the Financial Services Act 2012 (c.21), S.I. 2006/1183, 2007/1093 and 2011/1043.

<sup>(23)</sup> Section 352 was amended by paragraph 54 of Schedule 26 to the Criminal Justice Act 2003 (c.44).

- (iii) in subsection (5) “or (4)” were omitted;
- (iv) in subsection (6)(a) “or that it had been disclosed in accordance with section 350” were omitted.

### **Injunctions and restitution**

**6.—**(1) Part 25 of the Act<sup>(24)</sup> (injunctions and restitution) applies in respect of a relevant requirement as it applies in respect of a relevant requirement under the Act, with the modifications set out in this paragraph.

(2) Part 25 applies as if—

- (a) each reference to the Act included a reference to these Regulations;
- (b) each reference to a section of the Act were a reference to that section as applied by these Regulations;
- (c) references to the Secretary of State were omitted;
- (d) each reference to an authorised person included a reference to a securitisation regulation unauthorised person.

(3) Section 380 (injunctions) applies as if—

- (a) subsections (6), (7), (8), (9), (11) and (12)<sup>(25)</sup> were omitted;
- (b) after subsection (10) there were inserted—

“(11) In the case of a contravention of a requirement that is imposed by or under the Securitisation Regulations 2018, the Act as applied by those Regulations and the EU Securitisation Regulation 2017, the “appropriate regulator” is whichever of the PRA or the FCA is the appropriate regulator under the Securitisation Regulations 2018.”.

(4) Section 381 (injunctions in cases of market abuse) does not apply.

(5) Section 382 (restitution orders) applies as if—

- (a) subsections (9), (10), (11), (12), (14) and (15)<sup>(26)</sup> were omitted;
- (b) after subsection (13) there were inserted—

“(14) In the case of a contravention of a requirement that is imposed by or under the Securitisation Regulations 2018, the Act as applied by those Regulations and the EU Securitisation Regulation 2017, the “appropriate regulator” is whichever of the PRA or the FCA is the appropriate regulator under the Securitisation Regulations 2018.”.

(6) Section 383 (restitution orders in cases of market abuse) does not apply.

(7) Section 384 (power of FCA or PRA to require restitution) applies as if—

- (a) the reference to “authorised person” in subsection (1) were a reference to a “securitisation regulation unauthorised person, as defined in regulation 2(1) of the Securitisation Regulations 2018”;
- (b) subsections (2) and (3) and references to those subsections were omitted;
- (c) subsections (7), (9), (10), (12) and (13)<sup>(27)</sup> were omitted;
- (d) after subsection (11) there were inserted—

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<sup>(24)</sup> Part 25 was amended by paragraphs 19, 21, 23, 24 and 25 of Schedule 9 to the Financial Services Act 2012 (c.21), paragraph 3 of Schedule 10 to the Financial Services (Banking Reform) Act 2013 (c.33) and S.I. 2007/126, 2013/1773, 2015/1755, 2016/225 and 680. There are other amendments but none is relevant.

<sup>(25)</sup> Subsection (12) was inserted by section 37 of and paragraphs 1 and 19 of Schedule 9 to the Financial Services Act 2012 (c.21).

<sup>(26)</sup> Subsection (15) was inserted by section 37 of and paragraphs 1 and 21 of Schedule 9 to the Financial Services Act 2012 (c.21).

<sup>(27)</sup> Subsection (13) was inserted by section 37 of and paragraphs 1 and 23 to Schedule 9 to the Financial Services Act 2012 (c.21).

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“(11) In the case of a contravention of a requirement that is imposed by or under the Securitisation Regulations 2018, the Act as applied by those Regulations and the EU Securitisation Regulation 2017, the “appropriate regulator” is whichever of the PRA or the FCA is the appropriate regulator under the Securitisation Regulations 2018.”.

## Notices

7.—(1) Part 26 of the Act(**28**)(notices) applies in respect of notices given by the FCA or the PRA under these Regulations and under the Act as applied by these Regulations as it applies in respect of notices given by the FCA and the PRA under the Act, with the modifications set out in this paragraph.

(2) Part 26 applies as if—

- (a) each reference to the Act included a reference to these Regulations;
- (b) each reference to a section of the Act were a reference to that section as applied by these Regulations.

(3) Section 391 (publication) applies as if—

- (a) references to a supervisory notice were references to a notice under regulations 15(3), 15(6)(a), 15(6)(d), 15(6)(e), 22(3), 22(6)(a), 22(6)(d) and 22(6)(e);
- (b) for subsection (1ZB)(**29**) there were substituted—

“(1ZB) A warning notice falls within this subsection if it is given under any of regulation 19(1)(a) to (c) of the Securitisation Regulations 2018.”;

- (c) subsections (4A)(**30**), (5A)(**31**), (8A)(**32**), (8B)(**33**) and (8C)(**34**), (8D)(**35**) and (8E)(**36**), (10) and (11)(**37**) were omitted.

(4) Sections 391A (publication: special provisions relating to the capital requirements directive), 391B (publication: special provisions relating to the transparency obligations directive), 391C (publication: special provisions relating to the UCITS directive), 391D (publication: special provisions relating to the markets in financial instruments directive) and 391E (publication: special provisions relating to the insurance distribution directive) do not apply.

(5) For section 392 (application of sections 393 and 394) there were substituted—

“Sections 393 and 394 apply to—

- (a) warning notices given in accordance with regulation 19 of the Securitisation Regulations 2018 and section 385 of the Act as applied by those Regulations;
- (b) notices given in accordance with regulation 20 and section 386 of the Act as applied by those Regulations.”.

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(28) Part 26 was amended by paragraph 11 of Schedule 4 to the Regulation of Investigatory Powers Act 2000 (c.23), sections 13 and 24 of and paragraphs 28 and 29 of Schedule 2 to the Financial Services Act 2010 (c.28), sections 17, 18, 19 and 24 of and paragraph 37 of Schedule 8, Schedule 9 and paragraph 8 of Schedule 13 to the Financial Services Act 2012 (c.21), section 4 of and Schedule 3 to the Financial Services (Banking Reform) Act 2013 (c.33), paragraph 43 of Schedule 10 to the Investigatory Powers Act 2016 (c.25), S.I. 2005/381, 2005/1433, 2007/126, 2007/1973, 2009/534, 2010/22, 2010/747, 2012/916, 2013/1388, 2013/3115, 2014/2879, 2015/1755, 2016/225, 2016/680, 2016/715, 2016/1239 and 2017/701. There are other amendments but none is relevant.

(29) Subsection (1ZB) was substituted for subsection (1) as originally enacted by section 37 of and paragraphs 1 and 30 of Schedule 9 to the Financial Services Act 2012 (c.21).

(30) Subsection (4A) was inserted by S.I. 2013/3115.

(31) Subsection (5A) was inserted by section 24 of the Financial Services Act 2012 (c.21).

(32) Subsection (8A) was inserted by S.I. 2014/2879.

(33) Subsection (8B) was inserted by S.I. 2016/680.

(34) Subsection (8C) was inserted by S.I. 2016/715.

(35) Subsection (8D) was inserted by S.I. 2017/1127.

(36) Subsection (8E) was inserted by S.I. 2018/135.

(37) Subsection (11) was substituted by section 24 of and paragraphs 1 and 28 of Schedule 2 to the Financial Services Act 2010 (c.28).

(6) Section 395 (the FCA's and the PRA's procedures) applies as if references to a supervisory notice were references to a notice under regulations 15(3), 15(6)(a), 15(6)(d), 15(6)(e), 22(3), 22(6)(a), 22(6)(d) and 22(6)(e).

## **Offences**

**8.—**(1) Section 398 of the Act(**38**) (misleading FCA or PRA: residual cases) applies in respect of requirements imposed by or under these Regulations and by or under the EU Securitisation Regulation 2017 as it applies in respect of requirements imposed by or under the Act.

(2) Section 399 of the Act (misleading the CMA) does not apply.

(3) Section 400(**39**) (offences by bodies corporate etc.) applies in respect of offences under the Act as applied by these Regulations as it applies in respect of offences under the Act.

(4) Section 401 of the Act(**40**) (proceedings for offences) applies in respect of offences under the Act as applied by these Regulations as it applies in respect of offences under the Act, as if—

(a) subsection (1)(c) were omitted;

(b) references to the Secretary of State were omitted;

(c) subsections (3A), (3AB)(**41**) and (3B)(**42**) were omitted.

(5) Section 402 of the Act (power of FCA to institute proceedings for certain other offences) does not apply; and

(6) Section 403(**43**) of the Act (jurisdiction and procedure in respect of offences) applies in respect of offences under the Act as applied by these Regulations as they apply in respect of offences under the Act, as if in subsection (7) for the words from “or an offence” to the end were omitted.

## **Limitation on powers to require documents**

**9.** Section 413 of the Act (protected items) applies for the purposes of these Regulations as it applies for the purposes of the Act.

## **Consultation in relation to taking certain enforcement action**

**10.** Section 415B(**44**) of the Act (consultation in relation to taking certain enforcement action) applies in respect of notices given by the FCA or the PRA, and applications to the court by the FCA or PRA, under the Act as applied by these Regulations.

## **Penalties and fees**

**11.—**(1) Paragraphs 19 to 23 of Schedule 1ZA(**45**) to the Act (The FCA: penalties and fees) apply with respect to the discharge by the FCA of its functions under these Regulations and of its

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(38) Section 398 was amended by paragraph 36 of Schedule 9 to the Financial Services Act 2012 (c.21) and S.I. 2013/1773, 2015/1882, 2016/680, 2017/701, 2018/135 and 2018/698.

(39) Section 400 was amended by paragraph 37 of Schedule 9 to the Financial Services Act 2012.

(40) Section 401 was amended by paragraph 38 of Schedule 9 to the Financial Services Act 2012 (c.21) and S.I. 2013/1881 and 2016/1239.

(41) Subsection (3AB) was inserted by S.I. 2016/1239.

(42) Subsection (3A) and (3B) were inserted by section 37 of and paragraph 38 of Schedule 9 to the Financial Services Act 2012 (c.21).

(43) Section 403 was amended by paragraph 40 of Schedule 9 to the Financial Services Act 2012 (c.21).

(44) Section 415B was inserted by paragraph 41 of Schedule 9 to the Financial Services Act 2012 (c.21). It was amended by paragraph 15 of Schedule 3 to the Financial Services (Banking Reform) Act 2013 (c.33) and S.I. 2016/680.

(45) Schedule 1ZA was inserted by Schedule 3 to the Financial Services Act 2012 (c.21) and is amended by section 109 of, paragraph 7 of Schedule 8 to and paragraph 4 of Schedule 10 to the Financial Services (Banking Reform) Act 2013 (c.33), section 29 of the Bank of England and Financial Services Act 2016 (c.14) and S.I. 2013/1773. There are other amendments but none is relevant.

functions under the Act as applied by these Regulations as they apply with respect to the discharge by it of its functions under the Act, with the following modifications.

- (2) Those paragraphs apply as if—
  - (a) each reference to penalties imposed under the Act included a reference to penalties imposed under these Regulations and under the Act as applied by these Regulations;
  - (b) each reference to a section or Part of the Act included a reference to that section or Part as applied by these Regulations;
  - (c) each reference to the functions of the FCA included a reference to its functions under these Regulations and its functions under the Act as applied by these Regulations.
- (3) Paragraph 20 applies as if references to the FCA’s enforcement powers included—
  - (a) its powers under these Regulations and under Part 25(46) of the Act as applied by these Regulations;
  - (b) its powers in relation to the investigation of offences under the Act as applied by these Regulations;
  - (c) its powers in England and Wales or Northern Ireland in relation to the prosecution of offences under the Act as applied by these Regulations.
- (4) Paragraph 21 applies as if regulated persons included a SRUP.
- (5) Paragraph 23 applies as if references to qualifying functions included references to the functions of the FCA under these Regulations and under the Act as applied by these Regulations.

**12.**—(1) Paragraphs 27 to 31 of Schedule 1ZB(47) to the Act (The PRA: penalties and fees) apply with respect to the discharge by the PRA of its functions under these Regulations and of its functions under the Act as applied by these Regulations as they apply with respect to the discharge by it of its functions under the Act, with the following modifications.

- (2) Those paragraphs apply as if—
  - (a) each reference to penalties imposed under the Act included a reference to penalties imposed under these Regulations and under the Act as applied by these Regulations;
  - (b) each reference to a section or Part of the Act included a reference to that section or Part as applied by these Regulations;
  - (c) each reference to the functions of the PRA included a reference to its functions under these Regulations.
- (3) Paragraph 28 applies as if references to the PRA’s enforcement powers included—
  - (a) its powers under these Regulations and under Part 25 of the Act as applied by these Regulations;
  - (b) its powers in relation to the investigation of offences under the Act as applied by these Regulations;
  - (c) its powers in England and Wales or Northern Ireland in relation to the prosecution of offences under the Act as applied by these Regulations.
- (4) Paragraph 29 applies as if PRA-authorized persons included a securitisation regulation unauthorised person.

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(46) Part 25 was amended by paragraphs 19, 21 and 23 of Schedule 9 to the Financial Services Act 2012 (c.21) and S.I. 2016/680. There are other amendments but none is relevant.

(47) Schedule 1ZB was inserted by Schedule 3 to the Financial Services Act 2012 (c.21) and is amended by section 109 of the Financial Services (Banking Reform) Act 2013 (c.33), section 16 of and paragraphs 26 and 50 of Schedule 2 to the Bank of England and Financial Services Act 2016 (c.14) and S.I. 2018/1115. There are other amendments but none is relevant.



(5) Paragraph 31 applies as if references to qualifying functions included references to the functions of the PRA under these Regulations and under the Act as applied by these Regulations.

### **Exemption from liability in damages**

**13.** The functions of the FCA under these Regulations and its functions under the Act as applied by these Regulations are to be treated for the purposes of paragraph 25 of Schedule 1ZA(**48**) to the Act (exemption from liability in damages) as functions conferred on the FCA under the Act.

**14.** The functions of the PRA under these Regulations and its functions under the Act as applied by the Regulations are to be treated for the purposes of paragraph 33 of Schedule 1ZB(**49**) to the Act (exemption from liability in damages) as functions conferred on the PRA under the Act.

### **The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001**

**15.** The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001(**50**) (“Notice Regulations”) apply in respect of a notice or document given by the FCA or the PRA under these Regulations or the Act as applied by these Regulations as they apply in respect of a notice or document given by the FCA or the PRA under the Act, as if—

- (a) that notice or document were “a relevant document” under the Notice Regulations;
- (b) each reference to the Act included a reference to these Regulations and to the Act as applied by these Regulations;
- (c) each reference to a section of the Act were a reference to that section as applied by these Regulations.
- (d) each reference to an investigating authority were a reference to the FCA or the PRA.

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

**16.** The provisions in regulations 16 to 19 of the Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013(**51**) apply in respect of powers conferred on the European Securities and Markets Authority under Articles 61 to 63 of Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories(**52**) (“the EMIR regulation”) as extended and modified by Article 14 of the EU Securitisation Regulation 2017 as they apply to powers conferred on the European Securities and Markets Authority under Articles 61 to 63 of the EMIR regulation (as not so extended and modified).

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(48) Paragraph 25 was amended by section 109 of the Financial Services (Banking Reform) Act 2013 (c.33).

(49) Paragraph 33 was amended by section 109 of the Financial Services (Banking Reform) Act 2013 (c.33).

(50) S.I. 2001/1420. There are amendments but none is relevant.

(51) S.I. 2013/504.

(52) OJ L 201, 27.7.2012 p.1.