
STATUTORY INSTRUMENTS

2018 No. 135

The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018

PART 2

FCA powers over Miscellaneous BM persons

FCA's power to impose requirements

6.—(1) The FCA may exercise its power under paragraph (2) in relation to a Miscellaneous BM person if it appears to the FCA that—

- (a) the Miscellaneous BM person has contravened or is likely to contravene a relevant requirement;
- (b) it is desirable for the FCA to exercise its powers in order to advance any of its operational objectives [^{F1}but only in respect of a Miscellaneous BM person coming within regulation 5(2)(d) or (e)]; or
- (c) it is desirable for the FCA to exercise its powers order to facilitate the performance of its functions under the EU Benchmarks Regulation 2016.

(2) The FCA's power under this paragraph is a power to—

- (a) impose a requirement that the FCA considers appropriate;
- (b) vary a requirement already imposed under this paragraph; or
- (c) cancel such a requirement.

(3) The FCA may, on the application of the Miscellaneous BM person—

- (a) impose a requirement that the FCA considers appropriate;
- (b) vary a requirement already imposed by the FCA; or
- (c) cancel such a requirement.

(4) The FCA may refuse an application under paragraph (3) if it appears to the FCA that—

- (a) the Miscellaneous BM person has contravened or is likely to contravene a relevant requirement;
- (b) it is desirable to do so in order to advance any of the FCA's operational objectives; or
- (c) it is desirable to do so in order to facilitate the performance of the FCA's functions under the EU Benchmarks Regulation 2016.

(5) Where the FCA refuses an application under paragraph (3), section 55X of the Act (determination of applications: warning notices and decision notices) applies as if—

- (a) the reference in section 55X(2) to “an application made under this Part” included applications made under paragraph (3) of this regulation;
- (b) the reference to section 55X(4) to “an application under this Part” included applications made under paragraph (3) of this regulation; and

Changes to legislation: The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018, Section 6 is up to date with all changes known to be in force on or before 11 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (c) each reference to a “regulator” were a reference to the FCA.
- (6) Where the FCA proposes to impose or vary a requirement or imposes or varies a requirement under paragraph (2), section 55Y of the Act ^{F2} (exercise of own-initiative power: procedure) applies as if—
- (a) each reference to either regulator's own-initiative requirement power were a reference to the FCA's power to impose a requirement under this regulation;
 - (b) each reference to the regulator were a reference to the FCA, and each reference to either regulator were a reference to the FCA only;
 - (c) each reference to an authorised person were a reference to a Miscellaneous BM person;
 - (d) each reference to a variation of permission, or the imposition or variation of a requirement, were a reference to a restriction imposed on a Miscellaneous BM person under paragraph (2); and
 - (e) the reference in subsection (12) ^{F3} to section 391(8) were a reference to section 391(8) as applied by these Regulations.

F1 Words in [reg. 6\(1\)\(b\)](#) inserted (14.10.2019) by [The Financial Services and Markets Act 2000 \(Benchmarks\) \(Amendment\) Regulations 2019 \(S.I. 2019/1256\)](#), regs. 1, **2(3)**

F2 Section 55Y was inserted by section 11(2) of the [Financial Services Act 2012 \(c. 21\)](#).

F3 Subsection (12) of section 55Y of the Act was inserted by section 11(2) of the Financial Services Act 2012.

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)