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STATUTORY INSTRUMENTS

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**2019 No. 1043**

**The Financial Services and Markets Act  
2000 (Prospectus) Regulations 2019**

**PART 2**

**Amendments of the Financial Services and Markets Act 2000**

**Publication of Notices**

**33.**—(1) Section 391(publication) is amended as follows—

- (a) in subsection (4A) <sup>M1</sup>, for “and 391D” substitute “ 391D, 391E and 391F ”<sup>M2</sup> ;
- (b) after subsection (8F) <sup>M3</sup> insert—

“(8G) Where a decision notice or final notice relates to any decision or action under a provision of this Act in relation to the contravention of a requirement imposed by the prospectus regulation or any directly applicable EU regulation made under the prospectus regulation, this section has effect subject to Article 42 of the prospectus regulation (publication of decisions).”.

(2) After section 391E insert—

**“391F Publication: special provisions relating to the prospectus regulation**

(1) Subsection (2) applies where a decision notice or final notice relates to the imposition of a sanction or measure to which Article 42 of the prospectus regulation applies, and —

- (a) following an assessment by the FCA of the proportionality of publishing personal data of a person on whom the sanction or measure is imposed, the FCA considers it disproportionate to do so, or
- (b) publication of personal data of a person on whom the sanction or measure is imposed would jeopardise the stability of financial markets or an ongoing investigation.

(2) The FCA—

- (a) if publication on an anonymous basis of information about the matter to which the notice relates would ensure the effective protection of the personal data, must publish the information on an anonymous basis;
- (b) otherwise, must defer publication of the information until the conditions in subsection (1) cease to be met,

but this is subject to subsection (4).

(3) The FCA may make such arrangements as to the publication of information under subsection (2)(a) (including as to the timing of publication) as the FCA considers necessary to ensure effective protection of the personal data.

(4) The FCA must not publish the notice, or information about the matter to which the notice relates, if actions under subsection (2) are considered by the FCA to be insufficient to ensure —

- (a) that the stability of the financial markets would not be put in jeopardy; or
- (b) that, in cases involving sanctions or measures considered by the FCA to be of a minor nature, information is published only where it is proportionate to do so.

(5) In this section, “personal data”, in relation to a person who is not an individual, means the person's identity.”.

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**Commencement Information**

**I1** Reg. 33 in force at 21.7.2019, see [reg. 1\(1\)](#)

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**Marginal Citations**

**M1** Subsection (4A) was inserted by [S.I. 2013/3115](#).

**M2** [S.I. 2018/546](#) omitted to amend (4A) in consequence of inserting section 391E. This amendment is made in this S.I instead.

**M3** Subsection (8F) was inserted by [S.I. 2018/1288](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Prospectus) Regulations 2019, Section 33.