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## STATUTORY INSTRUMENTS

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# 2019 No. 266

## The Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019

### PART 8

#### Transitional Provisions

#### CHAPTER 5

#### General provision

#### Misleading the FCA: criminal offence

[<sup>F1</sup>45. Section 398 of the Financial Services and Markets Act 2000 (misleading the FCA or PRA: residual cases) applies to a requirement to provide information in accordance with—

- (a) a direction under regulation 24(3), 36(2) or 42(2),
- (b) regulation 24(2) or 47,
- (c) a written notification under regulation 47A, or

as it applies to a requirement falling within subsection (1A) of that section.]

**F1** Reg. 45 substituted (27.11.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(2), **50(4)**

#### Commencement Information

**I1** Reg. 45 in force at 14.2.2019, see reg. 1(2)

#### Offences by bodies corporate

**46.** Section 400 of the Act (offences by bodies corporate etc.) <sup>M1</sup> applies in respect of an offence under section 398 of that Act (as applied by regulation 45), as it applies in respect of an offence under that Act.

#### Commencement Information

**I2** Reg. 46 in force at 14.2.2019, see reg. 1(2)

#### Marginal Citations

**M1** 2000 c. 8. Section 398 is amended by paragraph 36 of Schedule 9 to the [Financial Services Act 2012 \(c. 21\)](#), [S.I. 2013/1773](#), [S.I. 2015/1882](#), [S.I. 2016/680](#), [S.I. 2017/701](#), [S.I. 2018/135](#) and [S.I. 2018/698](#).

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## [<sup>F2</sup>Further information to be supplied

**46A.** Subject to regulation 47A(7), regulations 47 and 47A apply to any person who, before IP completion day—

- (a) has submitted an advance application to the FCA in accordance with regulation 24, and has not been notified by the FCA of its decision in respect of the application in accordance with regulation 26;
- (b) has notified the FCA in accordance with regulation 36, and has not received a response from the FCA in accordance with regulation 38;
- (c) has notified the FCA in accordance with regulation 42, and who has not received a response from the FCA in accordance with regulation 44; or
- (d) has been notified by the FCA of a decision to register in accordance with regulation 26 or a decision to confirm the notification in accordance with regulations 38 or 44.]

**F2** Reg. 46A inserted (27.11.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(2), **50(5)**

## [<sup>F3</sup>Duty to disclose information

**47.** A person to whom this regulation applies must notify the FCA without delay if—

- (a) any information contained in, or accompanying—
  - (i) an advance application submitted in accordance with regulation 24, or
  - (ii) a notification made in accordance with regulations 36 or 42, changes; or
- (b) there are any material changes which affect or may affect compliance by that person with the conditions for registration set out in Title 3 of the CRA Regulation.

**F3** Regs. 47, 47A substituted for reg. 47 (27.11.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(2), **50(6)**

### Commencement Information

**I3** Reg. 47 in force at 14.2.2019, see reg. 1(2)

## FCA power to require information from a person to whom this regulation applies

**47A.—**(1) The FCA may, by notice in writing given to a person to whom this regulation applies, require that they—

- (a) provide information specified or information of a description specified by the FCA; or
  - (b) produce documents specified or documents of a description specified by the FCA.
- (2) The information or documents must be provided or produced—
- (a) before the end of such reasonable period, and
  - (b) at such place,

as may be specified.

(3) The powers conferred by paragraphs (1) and (2) apply only to information and documents reasonably required—

- (a) in connection with the exercise by the FCA of functions conferred on it by or under these Regulations; and
  - (b) in anticipation of the exercise by the FCA of their functions under the CRA Regulation and these Regulations which are conferred on them on IP completion day.
- (4) An officer who has written authorisation from the FCA to do so may request that a person to whom this regulation applies without delay—
- (a) provide the officer with specified information or information of a specified description; or
  - (b) produce to the officer specified documents or documents of a specified description.
- (5) The FCA may require any information provided under this regulation to be provided in such form as it may reasonably require.
- (6) The FCA may require—
- (a) any information provided, whether in a document or otherwise, to be verified in such manner, or
  - (b) any document produced to be authenticated in such manner,
- as it may reasonably require.
- (7) The FCA may also impose requirements under paragraphs (1) and (4) on related third parties, to whom a person to whom this regulation applies has outsourced operational functions or activities, to provide all information that is necessary in order to carry out the duties of the person to whom this regulation applies.
- (8) In this regulation, “officer” means an officer of the FCA and includes a member of the FCA’s staff or an agent of the FCA.]

**F3** Regs. 47, 47A substituted for reg. 47 (27.11.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(2), **50(6)**

## Directions

- 48.**—(1) The power to make a direction under this Part includes the power—
- (a) to make different directions in relation to different applications or categories of application;
  - (b) to vary or revoke a previous direction.
- (2) A direction under this Part must be—
- (a) in writing, and
  - (b) published by the FCA in a manner suitable to bring it to the attention of persons likely to be affected.

## Commencement Information

**I4** Reg. 48 in force at 14.2.2019, see reg. 1(2)

## Interpretation of Part 8

- 49.**—(1) In this Part—
- “advance application” means an application submitted during the period—
- (a) beginning with the day on which this Part comes into force, and

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- (b) ending immediately before [<sup>F4</sup>IP completion day];  
“working day” means a day other than—
  - (a) a Saturday or a Sunday,
  - (b) Christmas Day or Good Friday, or
  - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 <sup>M2</sup> in any part of the United Kingdom.
- (2) In this Part, reference to a group of undertakings means a group consisting of—
  - (a) a parent undertaking and its subsidiaries, within the meaning of Articles 1 and 2 of Directive [83/349/EEC](#) of 13 June 1983 <sup>M3</sup>, and
  - (b) undertakings linked to each other by a relationship mentioned in Article 12.1(a) or (b) of that Directive, whose occupation includes the issuing of credit ratings.

**F4** Words in reg. 49 substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **11(j)**

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**Commencement Information**

**I5** Reg. 49 in force at 14.2.2019, see reg. 1(2)

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**Marginal Citations**

**M2** 1971 c. 80; amended by section 1 of the [St Andrew's Day Bank Holiday \(Scotland\) Act 2007 \(asp 2\)](#).

**M3** O.J. L 193, 18.7.1983, p.1.

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**Changes and effects yet to be applied to :**

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