

## SCHEDULE 3

### Civil sanctions

## PART 8

### Guidance and publicity

#### **Guidance as to use of civil sanctions**

- 35.**—(1) The regulator must publish guidance about its use of civil sanctions.
- (2) The regulator must revise and update the guidance where appropriate.
- (3) The regulator must have regard to the guidance or revised and updated guidance in exercising its functions.
- (4) In the case of guidance about compliance notices, restoration notices, fixed monetary penalties, variable monetary penalties, stop notices and non-compliance penalties, the guidance must contain information as to—
- (a) the circumstances in which the civil sanction is likely to be imposed;
  - (b) the circumstances in which it is not likely to be imposed;
  - (c) where relevant, rights to make representations and objections;
  - (d) rights of appeal; and
  - (e) in the case of guidance about variable monetary penalties and non-compliance penalties, the matters likely to be taken into account by the regulator in determining the amount of the penalty (including voluntary reporting by a person of the person's own non-compliance).
- (5) In the case of guidance about enforcement undertakings, the guidance must contain information as to—
- (a) the circumstances in which the regulator is likely to accept an enforcement undertaking; and
  - (b) the circumstances in which the regulator is not likely to accept an enforcement undertaking.

#### **Consultation on guidance**

- 36.** The regulator must consult such persons as it considers appropriate before publishing—
- (a) any guidance; or
  - (b) any significant revisions or updates to guidance which has already been published.

#### **Publication of enforcement action**

- 37.**—(1) The regulator must publish annually—
- (a) the cases in which civil sanctions have been imposed;
  - (b) where the civil sanction is a compliance notice, a restoration notice or variable monetary penalty, the cases in which a third party undertaking has been accepted;
  - (c) the cases in which an enforcement undertaking has been accepted.
- (2) In sub-paragraph (1)(a), the reference to cases in which civil sanctions have been imposed does not include cases where a sanction has been imposed but overturned on appeal.

**Status:** *This is the original version (as it was originally made).*

(3) This paragraph does not apply in cases where the regulator considers that publication would be inappropriate.