
STATUTORY INSTRUMENTS

2024 No. 107

The Data Reporting Services Regulations 2024

PART 3

Administration and enforcement

CHAPTER 2

Application of FSMA 2000 for the purposes of the Regulations

Application of Part 26 of FSMA 2000 (notices)

23.—(1) Part 26 of FSMA 2000(1) (notices) applies with respect to the giving of notices under these Regulations and under FSMA 2000 as applied by these Regulations as it applies with respect to the giving of notices under FSMA 2000, with the following modifications.

(2) Part 26 of FSMA 2000 applies as if—

- (a) each reference to that Act included a reference to these Regulations;
- (b) each reference to a section of that Act were a reference to that section as applied by these Regulations;
- (c) each reference to a regulator or to the regulator concerned were a reference to the FCA;
- (d) references to the PRA were omitted.

(3) Section 387 of FSMA 2000 (warning notices) applies as if subsections (1A) and (3A) were omitted.

(4) Section 388 of FSMA 2000 (decision notices) applies as if subsections (1A) and (2) were omitted.

(5) Section 391 of FSMA 2000 (publication) applies as if—

- (a) in subsection (1) the reference to a warning notice falling within subsection (1ZB) were to a warning notice given under section 312G as applied by these Regulations;
- (b) in subsection (1ZA) the reference to a warning notice not falling within subsection (1ZB) were to a warning notice given under any other provision of these Regulations or under FSMA 2000 as applied by these Regulations;
- (c) subsection (1ZB) were omitted;
- (d) in subsection (4A) the reference to sections 391A, 391B, 391C, 391E and 391F were omitted;
- (e) subsection (5A) were omitted;

(1) 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, 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, section 4 of and Schedule 3 to the Financial Services (Banking Reform) Act 2013, paragraph 43 of Schedule 10 to the Investigatory Powers Act 2016, section 212 of the Data Protection Act 2018 (c. 12), S.I. 2005/381, 2005/1433, 2007/126, 2007/1973, 2009/534, 2010/22 and 747, 2012/916, 2013/1388, 2014/2879, 2015/1755, 2016/225, 2016/680, 715 and 1239, 2017/701, 2018/135 and 546, 2019/632 (as amended by 2020/1301) and 1043. There are other amendments but none is relevant.

- (f) in subsection (6) for “consumers” there were substituted “persons to whom data reporting services are provided”;
 - (g) subsections (6A), (8A), (8AA), (8B), (8BA), (8C), (8D), (8E) and (8G) were omitted;
 - (h) for subsection (11) there were substituted—
 - “(11) Section 425A(2) (Consumers regulated activities etc carried on by authorised persons) applies for the purposes of this section as if—
 - (a) subsection (2)(c) and (d) were omitted;
 - (b) for subsection (3) there were substituted—
 - “(3) The services within this subsection are data reporting services within the meaning of the Data Reporting Services Regulations 2024.”;
 - (c) subsection (7) were omitted.”.
- (6) Sections 391A (publication: special provisions relating to capital requirements), 391B (publication: special provisions relating to transparency obligations), 391C (publication: special provision relating to UCITS), 391E (publication: special provision relating to insurance distribution) and 391F (publication: special provisions relating to the prospectus regulation) of FSMA 2000 do not apply.
- (7) Section 391D (publication: special provisions relating to markets in financial instruments) applies as if, in subsections (4)(c) and (8)(a), for “financial markets” there were substituted “market for data reporting services”.
- (8) Section 392 of FSMA 2000 (application of sections 393 and 394) applies as if for paragraphs (a) and (b) there were substituted—
- “(a) a warning notice given in accordance with—
 - (i) regulation 10(4)(a) of the Data Reporting Services Regulations 2024 (including that provision as applied by regulation 7 of those Regulations);
 - (ii) section 312G as applied by those Regulations; or
 - (iii) section 385 as applied by those Regulations;
 - (b) a decision notice given in accordance with—
 - (i) regulation 10(5)(b)(i) of those Regulations (including that provision as applied by regulation 7);
 - (ii) section 312G as applied by those Regulations; or
 - (iii) section 386 as applied by those Regulations;”.
- (9) Section 395 of FSMA 2000 (the FCA’s and PRA’s procedures) applies as if—
- (a) for subsection (1) there were substituted—
 - “(1) The FCA must determine the procedure that it proposes to follow in relation to a decision which gives rise to an obligation for it to give—
 - (a) a supervisory notice, warning notice or decision notice; or
 - (b) a decision under section 391(1)(c) to publish information about the matter to which a warning notice relates.”;
 - (b) in subsection (2)(a) for “any of the paragraphs (a) to (c)” there were substituted “paragraph (a)”;
 - (c) in subsection (2)(b) for “(d)” there were substituted “(b)”;

(2) Section 425A was inserted by paragraph 32 of Schedule 2 to the Financial Services Act 2010 and amended by [S.I. 2013/655](#), [2013/3115](#) and [2019/632](#). There are other amendments but none is relevant.

- (d) in subsection 2(c)—
 - (i) for “(d)” there were substituted “(b)”;
 - (ii) for “(b) or (c)” there were substituted “(a)”;
 - (e) subsection 3(b) and (4) were omitted;
 - (f) in subsection (9) “other than a warning notice or decision notice relating to a decision of the PRA that is required by a decision of the FCA of the kind mentioned in subsection (1) (b)(ii)” were omitted;
 - (g) subsection (9A) were omitted;
 - (h) for subsection (13) there were substituted—
 - “(13) “Supervisory notice” means a notice given in accordance with section 55Y of FSMA 2000 as applied by regulation 13 of the Data Reporting Services Regulations 2024.”.
- (10) In paragraph (1), “notices under these Regulations” does not include a notice under—
- (a) regulation 7(2) or (5)(a);
 - (b) regulation 9(6)(a) or (9)(a);
 - (c) regulation 10(5)(a) (including that provision as applied by regulation 7).