



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 12A

POWERS EXERCISABLE IN RELATION TO PARENT UNDERTAKINGS

[^{F1}Power of direction

Textual Amendments

- F1** Pt. 12A inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), ss. 27, 122(3) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(b)(c), [Sch. Pts. 2, 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

192C Power to direct qualifying parent undertaking

- (1) The appropriate regulator may give a direction under this section to a qualifying parent undertaking if either the general condition or the consolidated supervision condition is satisfied.
- (2) The general condition is that the appropriate regulator considers that it is desirable to give the direction in order to advance—
 - (a) in the case of the FCA, one or more of its operational objectives;
 - (b) in the case of the PRA, any of its objectives.
- (3) The consolidated supervision condition is that—
 - (a) the appropriate regulator is the competent authority for the purpose of consolidated supervision that is required, in relation to some or all of the members of the group of a qualifying authorised person, [^{F2}in pursuance of—
 - (i) any implementing provision contained in subordinate legislation (within the meaning of the Interpretation Act 1978) made otherwise than by any of the following—
 - (aa) statutory instrument, and

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- (bb) statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12));^{F3} ...
- (ii) any other implementing provision (as amended from time to time)],^{F4} ...
- [Part 9C rules;
- ^{F5}(iii)
- (iv) CRR rules; or
- (v) rules made under section 192XA, and]
- (b) the appropriate regulator considers that the giving of the direction is desirable for the purpose of the effective consolidated supervision of the group.
- [^{F6}(4) In subsection (3)(a)—
- “consolidated supervision” includes supplemental supervision;
- “implementing provision” has the same meaning as in section 3M.]
- (5) In deciding whether to give a direction under this section, a regulator must have regard—
- (a) to the desirability where practicable of exercising its powers in relation to authorised persons or recognised investment exchanges rather than its powers under this section, and
- (b) to the principle that a burden or restriction which is imposed on a person should be proportionate to the benefits, considered in general terms, which are expected to result from its imposition.
- (6) “The appropriate regulator” means—
- (a) where a direction relates to a qualifying authorised person or recognised investment exchange who is a PRA-authorised person, the FCA or the PRA;
- (b) in any other case, the FCA.

Textual Amendments

- F2** Words in s. 192C(3)(a) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **58(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Word in s. 192C(3)(a)(i)(bb) omitted (17.8.2022) by virtue of [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2022 \(S.I. 2022/838\)](#), regs. 1(2), **3(a)** (with regs. 24-26)
- F4** Word in s. 192C(3)(a)(ii) omitted (17.8.2022) by virtue of [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2022 \(S.I. 2022/838\)](#), regs. 1(2), **3(b)** (with regs. 24-26)
- F5** S. 192C(3)(a)(iii)-(v) inserted (17.8.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2022 \(S.I. 2022/838\)](#), regs. 1(2), **3(c)** (with regs. 24-26)
- F6** S. 192C(4) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **58(3)**; 2020 c. 1, Sch. 5 para. 1(1)

192D Requirements that may be imposed

- (1) A direction under section 192C may require the parent undertaking—
- (a) to take specified action, or

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- (b) to refrain from taking specified action.
- (2) A requirement may be imposed by reference to the parent undertaking's relationship with—
 - (a) its group, or
 - (b) other members of its group.
- (3) A requirement may refer to the past conduct of the parent undertaking (for example, by requiring the parent undertaking to review or take remedial action in respect of past conduct).
- (4) A requirement imposed by the direction may be expressed to expire at the end of a specified period, but the imposition of a requirement that expires at the end of a specified period does not affect the power to give a further direction imposing a new requirement.
- (5) The direction—
 - (a) may be revoked by the regulator which gave it by written notice to the body to which it is given, and
 - (b) ceases to be in force if the body to which it is given ceases to be a qualifying parent undertaking.

192E Direction: procedure

- (1) If a regulator proposes to give a direction under section 192C, or gives such a direction with immediate effect, it must give written notice to—
 - (a) the parent undertaking to which the direction is given (or to be given) (“P”), and
 - (b) any authorised person or recognised investment exchange who will, in the opinion of the regulator, be significantly affected by the direction.
- (2) In the following provisions of this section “notified person” means a person to whom notice under subsection (1) is given.
- (3) A direction under section 192C takes effect—
 - (a) immediately, if the notice under subsection (1) states that that is the case,
 - (b) on such other date as may be specified in the notice, or
 - (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.
- (4) A direction may be expressed to take effect immediately (or on a specified date) only if the regulator reasonably considers that it is necessary for the direction to take effect immediately (or on that date).
- (5) The notice under subsection (1) must—
 - (a) give details of the direction,
 - (b) state the regulator's reasons for the direction and for its determination as to when the direction takes effect,
 - (c) inform the notified person that the person may make representations to the regulator within such period as may be specified in the notice (whether or not the notified person has referred the matter to the Tribunal), and
 - (d) inform the notified person of the person's right to refer the matter to the Tribunal.

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- (6) The regulator may extend the period allowed under the notice for making representations.
- (7) If, having considered any representations made by any notified person, the regulator decides—
 - (a) to give the direction proposed, or
 - (b) if the direction has been given, not to revoke the direction,
 it must give each of the notified persons written notice.
- (8) If, having considered any representations made by any notified person, the regulator decides—
 - (a) not to give the direction proposed,
 - (b) to give a different direction, or
 - (c) to revoke a direction which has effect,
 it must give each of the notified persons written notice.
- (9) A notice given under subsection (7) must inform the notified person of the person's right to refer the matter to the Tribunal.
- (10) A notice under subsection (8)(b) must comply with subsection (5).
- (11) If a notice informs the notified person of the person's right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.
- (12) For the purposes of subsection (3)(c), whether a matter is open to review is to be determined in accordance with section 391(8).

192F Consultation between regulators

- (1) Before the PRA gives a notice under section 192E(1) or (8)(b), it must consult the FCA.
- (2) Before the FCA gives a notice under section 192E(1) or (8)(b) in relation to the parent undertaking of a PRA-authorized person, the FCA must consult the PRA.
- (3) Before [^{F7}the FCA] gives a notice under section 192E(1) or (8)(b) in relation to the parent undertaking of a recognised clearing house [^{F8}or a recognised CSD], [^{F9}it] must consult the Bank of England.

Textual Amendments

- F7** Words in s. 192F(3) substituted (1.3.2017) by [Bank of England and Financial Services Act 2016 \(c. 14\), s. 41\(3\), Sch. 2 para. 41\(a\)](#) (with [Sch. 3](#)); S.I. 2017/43, reg. 2(g)
- F8** Words in s. 192F(3) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), regs. 1, 2\(7\)](#) (with [regs. 7\(4\), 9\(1\)](#))
- F9** Word in s. 192F(3) substituted (1.3.2017) by [Bank of England and Financial Services Act 2016 \(c. 14\), s. 41\(3\), Sch. 2 para. 41\(b\)](#) (with [Sch. 3](#)); S.I. 2017/43, reg. 2(g)

192G References to Tribunal

- (1) A notified person who is aggrieved by the exercise by either regulator of its powers in relation to directions under section 192C may refer the matter to the Tribunal.

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- (2) “Notified person” is to be read in accordance with subsection (2) of section 192E, except that it includes a person to whom a notice under subsection (1) of that section ought to have been given.

192H Statement of policy: directions under section 192C

- (1) Each regulator must prepare and issue a statement of policy with respect to the giving of directions under section 192C.
- (2) A regulator may at any time alter or replace a statement issued under this section.
- (3) If a statement issued under this section is altered or replaced, the regulator must issue the altered or replacement statement.
- (4) In exercising or deciding whether to exercise its power under section 192C in any particular case, a regulator must have regard to any statement published under this section and for the time being in force.
- (5) A statement under this section must be published by the regulator concerned in the way appearing to the regulator to be best calculated to bring it to the attention of the public.
- (6) A regulator may charge a reasonable fee for providing a person with a copy of a statement published under this section.
- (7) A regulator must, without delay, give the Treasury a copy of any statement which the regulator publishes under this section.

192I Statement of policy relating to directions: procedure

- (1) Before issuing a statement of policy under section 192H, a regulator (“the issuing regulator”) must—
 - (a) consult the other regulator and ^{F10}, where the issuing regulator is the FCA,] the Bank of England, and
 - (b) publish a draft of the proposed statement in the way appearing to the issuing regulator to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the issuing regulator within a specified time.
- (3) Before issuing the proposed statement, the issuing regulator must have regard to any representations made to it in accordance with subsection (2).
- (4) If the issuing regulator issues the proposed statement it must publish an account, in general terms, of—
 - (a) the representations made to it in accordance with subsection (2), and
 - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (2) in a way which is, in the opinion of the issuing regulator, significant, the issuing regulator—
 - (a) must before issuing it consult the other regulator again, and
 - (b) must (in addition to complying with subsection (4)), publish details of the difference.

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- (6) The issuing regulator may charge a reasonable fee for providing a person with a draft published under subsection (1)(b).
- (7) This section also applies to a proposal to alter or replace a statement.]

Textual Amendments

F10 Words in s. 192I(1)(a) inserted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 42** (with Sch. 3); S.I. 2017/43, reg. 2(g)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2023/1347 reg. 8](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 81\(10\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17 Ch. 3B inserted by [2023 c. 29 s. 64\(3\)](#)
- Pt. 20C inserted by [2016 c. 14 s. 30\(3\)](#)
- s. 31(1)(aa) inserted by [2021 c. 22 s. 22\(2\)](#)
- s. 32A inserted by [2021 c. 22 s. 22\(3\)](#)
- s. 32A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- s. 36A and cross-heading inserted by [2021 c. 22 s. 22\(4\)](#)
- s. 71J and cross-heading inserted by [2021 c. 22 Sch. 8 para. 4](#)
- s. 86(9A) inserted by [S.I. 2019/707 reg. 8\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8(6)-(10) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 13(c))
- s. 87A(11) inserted by [S.I. 2019/707 reg. 10\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 10(4)(5) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 15(b))
- s. 124(10)(c)(i) word omitted by [S.I. 2019/310 reg. 5\(11\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(11)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(e))
- s. 129(7)(a) word inserted by [S.I. 2019/310 reg. 5\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 129(7)(c) omitted and word by [S.I. 2019/310 reg. 5\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 214(5A) inserted by [2021 c. 22 Sch. 8 para. 8](#)
- s. 261E(A1) inserted by [2023 c. 29 s. 64\(2\)\(a\)](#)
- s. 367A inserted by [2021 c. 22 Sch. 8 para. 10](#)
- s. 395(13)(h)(i) inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(c\)](#)
- s. 395(13)(bc)-(be) word inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(b\)](#)
- s. 395(14) inserted by [2021 c. 22 Sch. 8 para. 12\(3\)](#)
- s. 427A(3) words substituted by [2002 c. 40 Sch. 17 para. 59](#) (This amendment not applied to legislation.gov.uk. The Financial Services and Markets Act 2000 does not contain a section 427A.)
- Sch. 1ZA para. 32(c) and word inserted by [2021 c. 22 Sch. 8 para. 18](#)
- Sch. 2A para. 19(2)(b)(iia) inserted by [2023 c. 29 Sch. 10 para. 19\(a\)](#)
- Sch. 2A2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2B inserted by [2021 c. 22 Sch. 7](#)
- Sch. 2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 11A para. 5(3) inserted by [S.I. 2019/707 reg. 38\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 38(2)-(5)(7)(8) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 20)

- Sch. 17A para. 12 words substituted by [S.I. 2019/662 reg. 13\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 13(1) substituted (25.6.2020) by S.I. 2020/646, regs. 1(2)(c), 11(3))