



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### [<sup>F1</sup>PART 8B

#### CASH ACCESS SERVICES

##### *[<sup>F1</sup>Supervision of designated persons*

#### Textual Amendments

**F1** Pt. 8B inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(c), [Sch. 8 para. 1](#)

#### **131U Purpose for which FCA must exercise functions under this Part**

- (1) The FCA must exercise its functions under this Part for the purpose of seeking to ensure reasonable provision of cash access services in the United Kingdom, or a part of the United Kingdom.
- (2) In this section references to cash access services include references to free cash access services.
- (3) “Reasonable provision” of cash access services is provision of such nature and extent as the FCA may determine, having regard to—
  - (a) the cash access policy statement currently in effect (see section [131P](#)), and
  - (b) such other matters as it considers appropriate.
- (4) In making a determination for the purposes of subsection (3) the FCA must, in particular, have regard to any local deficiencies in provision of cash access services—
  - (a) which the FCA is aware of, and
  - (b) the impacts of which the FCA considers to be significant.
- (5) A local deficiency in provision of cash access services is a circumstance which limits the ability of persons in any locality in a part of the United Kingdom to—

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- (a) withdraw cash from a relevant current account, or
  - (b) place cash on a relevant current account.
- (6) In determining whether there are local deficiencies in the provision of cash access services, and the significance of the impacts of such deficiencies, the FCA must have regard to—
- (a) the cash access policy statement currently in effect, and
  - (b) such other matters as it considers appropriate.
- (7) Those other matters may include (but are not limited to)—
- (a) the number of persons likely to be affected by the deficiency;
  - (b) the characteristics of the persons likely to be affected by the deficiency;
  - (c) the likely impact on the persons likely to be affected.

### **131V FCA rules**

- (1) The FCA may make such rules applying to designated persons as appear to the FCA to be necessary or expedient for the purpose mentioned in section [131U\(1\)](#).
- (2) Rules under this section must not require a designated person to do (or refrain from doing) any thing in relation to a part of the United Kingdom in relation to which the person is not designated.
- (3) Section 137T (general supplementary powers for rules made by a regulator) applies in relation to rules made by the FCA under this section as if, in paragraph (a), the reference to descriptions of authorised persons, activity or investment were to descriptions of designated persons and activities carried on by such persons.
- (4) Section 138A (modification or waiver of rules) applies in relation to rules made by the FCA under this section as if subsection (4)(b) were omitted.
- (5) Section 138I (consultation by FCA before making rules) applies to rules under this section as if, in subsection (2)(d), the reference to the FCA's duties under section 1B(1) and (5)(a) were to the purpose for which the FCA must exercise its functions under this Part.

### **131W Power to direct designated persons**

- (1) The FCA may give a direction under this section to a designated person if it considers that it is desirable to give the direction for the purpose mentioned in section [131U\(1\)](#).
- (2) A direction under this section must not require a designated person to do (or refrain from doing) any thing in relation to a part of the United Kingdom in relation to which the person is not designated.
- (3) A direction under this section may require the person to—
  - (a) take specified action;
  - (b) refrain from taking specified action;
  - (c) review, or take remedial action in respect of, past conduct.
- (4) A requirement imposed by a direction under this section 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.

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- (5) A direction under this section—
- (a) may be revoked by the FCA by written notice to the person to whom it is given, and
  - (b) ceases to be in force if the person to whom it is given ceases to be a designated person.

### **131X Procedure for directions**

- (1) If the FCA proposes to give a direction under section 131W, or gives such a direction with immediate effect, it must give written notice to the designated person to whom the direction is given (or to be given).
- (2) A direction under section 131W takes effect—
  - (a) immediately, if the notice under subsection (1) states 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.
- (3) A direction under section 131W may be expressed to take effect immediately (or on a specified date) only if the FCA reasonably considers that it is necessary for the direction to take effect immediately (or on that date).
- (4) The notice under subsection (1) must—
  - (a) give details of the direction;
  - (b) state the FCA's reasons for the direction and for its determination as to when the direction takes effect;
  - (c) inform the designated person that the person may make representations to the FCA within such period as may be specified in the notice (whether or not the person has referred the matter to the Tribunal);
  - (d) inform the designated person of the person's right to refer the matter to the Tribunal.
- (5) The FCA may extend the period allowed under the notice for making representations.
- (6) The FCA must give the designated person written notice if, having considered any representations made by the person, it decides—
  - (a) to give the direction proposed;
  - (b) if the direction has been given, not to revoke the direction.
- (7) The FCA must give the designated person written notice if, having considered any representations made by the person, it decides—
  - (a) not to give the direction proposed;
  - (b) to give a different direction;
  - (c) to revoke a direction.
- (8) A notice given under subsection (6) must inform the notified person of the person's right to refer the matter to the Tribunal.
- (9) A notice under subsection (7)(b) must comply with subsection (4).
- (10) If a notice informs the designated 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.

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- (11) For the purposes of subsection (2)(c), whether a matter is open to review is to be determined in accordance with section 391(8).

### **131Y Information gathering and investigations**

- (1) For the purposes of this Part, Part 11 (information gathering and investigations) applies in accordance with this section.
- (2) Sections 165A to 165C, 169 and 169A do not apply.
- (3) Any reference to an authorised person includes a person designated for the purposes of this Part (whether or not the person is an authorised person).
- (4) In addition—
- (a) references to an authorised person in sections 165 and 176(3A)(a) include a person mentioned in subsection (5) (whether or not the person is an authorised person);
  - (b) sections 175 to 177 apply in relation to section 165 as modified in accordance with paragraph (a).
- (5) The persons are—
- (a) a relevant current account provider who is not a designated person for the purposes of this Part;
  - (b) an operator of cash access coordination arrangements who is not a designated person for the purposes of this Part;
  - (c) the operator of, or an infrastructure provider in relation to, a payment system, who is not a designated person for the purposes of this Part;
  - (d) a person (other than a person mentioned in paragraph (a), (b) or (c)) who provides cash access services and is not a designated person for the purposes of this Part;
  - (e) a person who provides a relevant service to a person mentioned in paragraph (a), (b), (c) or (d) and is not a designated person for the purposes of this Part.
- (6) In subsection (5)(c), “payment system”, and “operator” and “infrastructure provider” in relation to a payment system, have the same meanings as in Part 5 of the Financial Services (Banking Reform) Act 2013 (see section 110 of that Act).
- (7) For the purposes of subsection (5)(e), a “relevant service” is a service provided in connection with the provision of cash access services.
- (8) In relation to a person who is not an authorised person but is treated as such for the purposes of this Part (by virtue of subsection (3) or (4)), any reference to “either regulator” is to the FCA only.

### **131Z Disciplinary measures**

For the purposes of enforcing a requirement imposed by or under this Part, Part 14 (disciplinary measures) applies as if—

- (a) any reference to an authorised person includes a person designated for the purposes of this Part (whether or not that person is an authorised person), and
- (b) section 206A (suspending permission to carry on regulated activities etc) were omitted.

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### **131Z1 Costs of supervision**

Rules made under paragraph 23 of Schedule 1ZA, in connection with the carrying out of any of the FCA's functions under this Part, must not provide for the payment of fees to the FCA by any person other than a designated person who is a relevant current account provider.

### **131Z2 Exclusion and modification of other FCA duties**

- (1) Where the FCA is discharging a function under this Part, section 1B (FCA's general duties) applies as if—
  - (a) in subsection (1)(b), the reference to one or more of the FCA's operational objectives were to the purpose mentioned in section [131U\(1\)](#);
  - (b) subsections (4) and (4A) (promoting effective competition in the interests of consumers and advancing competitiveness and growth) do not apply.
- (2) In discharging its functions under this Part, the regulatory principles in section 3B(1) have effect as if, in paragraph (g), the reference to the FCA's objectives included the purpose mentioned in section [131U\(1\)](#).
- (3) Section 395 applies in relation to a decision of the FCA made in connection with a function under this Part as if, in subsection (3)(a), the reference to the FCA's operational objectives included the purpose mentioned in section [131U\(1\)](#).]

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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))